



# COMMONWEALTH of VIRGINIA

*Commission*

*on the*

*Virginia Alcohol Safety Action Program (VASAP)*

Delegate Patrick A. Hope  
Chairman

Angela D. Coleman  
Executive Director

## **QUARTERLY BOARD MEETING**

**Friday, June 5, 2026**

**Senate Room A**

**General Assembly Building**

**201 N. 9th Street**

**Richmond, VA 23219**

**10:00 am**

**AGENDA**

- I. INTRODUCTIONS  
Delegate Patrick A. Hope, Chairman
- II. WELCOME TO NEW MEMBER  
Delegate Charles H. Schmidt, Jr. Virginia House of Delegates 77<sup>th</sup> District  
The Honorable W. Michael Chick, Jr. Arlington Juvenile and Domestic Relations District Court
- III. APPROVAL OF MINUTES  
March 27, 2026
- IV. REVIEW AND APPROVAL OF DIRECTOR PERFORMANCE REVIEW PROCESS  
Ms. Angela D. Coleman
- V. REVIEW AND APPROVAL OF ASAP REGULATIONS, RAMD REGULATIONS, INTERLOCK REGULATIONS, CERTIFICATION MANUAL  
Ms. Charlene Motley  
Mr. Christopher Morris
- VI. REVIEW OF LOCAL ASAP PROGRAM BUDGETS  
Mr. Christopher Morris  
Mr. Anthony Carmichael, Director Southeastern Virginia ASAP  
Ms. Bridget Mullins, Interim Director Old Dominion ASAP
- VII. EXECUTIVE DIRECTOR'S REPORT  
Ms. Angela D. Coleman
- VIII. TRI-RIVER ASAP  
Sheriff W. R. Balderson, King and Queen County
- IX. EXECUTIVE SESSION
- X. 2026 MEETING DATES  
September 18<sup>th</sup>  
December 3<sup>rd</sup>

## XI. ADJOURNMENT

### **Members:**

Delegate Patrick A. Hope, Chairman  
Senator Scott A. Surovell, Vice Chairman  
Senator Richard H. Stuart  
Delegate James A. "Jay" Leftwich, Jr.  
Delegate Rae C. Cousins  
Delegate Charles H. Schmidt, Jr.  
The Honorable Mary Jane Hall

The Honorable Gino Williams  
The Honorable W. Michael Chick, Jr.  
Sheriff Michael A. Moore  
Ms. Margaret Steele  
Ms. Jennifer Wicker  
Ms. Emily Witt  
Ms. Krystal Hulette  
Ms. Loren "Ashley" Cole

### **Staff:**

Ms. Angela D. Coleman, Executive Director

**Previous  
Commission  
Meeting  
Minutes**

**COMMISSION ON VASAP  
QUARTERLY MEETING**

March 27, 2026

Minutes

Attendance:

Commission Members:

Delegate Patrick A. Hope, Chairman  
Senator Scott A. Surovell, Vice Chairman  
Delegate Rae C. Cousins  
Delegate Atoosa R. Reaser  
The Honorable Gino W. Williams  
The Honorable George D. Varoutsos  
The Honorable Mary Jane Hall  
Ms. Jennifer Wicker  
Ms. Emily Witt  
Ms. Krystal Hullette  
Ms. Loren Ashley Cole

Absent:

Senator Richard H. Stuart  
Delegate James A. Leftwich, Jr.  
Sheriff Michael Moore  
Ms. Margaret Steele

Commission Staff

Ms. Angela Coleman, Executive Director  
Ms. Issar Ali  
Ms. EdQuina Bradley  
Ms. Shelby Edwards  
Ms. Rosario Luviano  
Mr. Glen Miller  
Mr. Christopher Morris  
Ms. Charlene Motley  
Mr. Richard Phillips  
Ms. LeAnne Turner

Office of the Attorney General

Ms. Janet Baugh

### **Time and Place**

The quarterly meeting of the Commission on Virginia Alcohol Safety Action Program (VASAP) was conducted in Senate Room A at the General Assembly Building in Richmond, Virginia on March 27, 2026, at 10:00 a.m.

Delegate Patrick A. Hope presided and called the meeting to order at 10:00 a.m. Ms. Angela Coleman, Executive Director, called roll of the Commission Members.

### **Acknowledgment & Moment of Silence in Memory of Branden Green**

Ms. Coleman acknowledged the tragic death of Branden Green, Director of Tri-River ASAP, which is currently the subject of ongoing legal proceedings following an alleged incident involving an ASAP client on December 11, 2025.

Mr. Green was a graduate of Cornell University and honorably served his country as a member of the United States Army. Following his military service, he worked with disabled veterans, served as a scuba instructor and program manager for Adaptive Reconditioning, and later as Performance Center Manager for the Ready and Resilient Program.

Ms. Coleman noted that Mr. Green was a respected leader, colleague, and public servant who dedicated his life and career to helping others and strengthening the safety and well-being of the communities he served. His loss is deeply felt not only by Tri-River ASAP staff, but across all programs and among the many stakeholders impacted by his commitment and compassion.

All in attendance stood for a moment of silence in his honor.

### **Welcome to New Member**

Delegate Hope introduced a new Commission member, Ms. Emily Witt, Deputy Director Driver Compliance Virginia DMV. Ms. Witt shared that she has been employed by DMV for 15 years and is looking forward to serving on the Commission.

### **Approval of the Minutes**

Delegate Rae C. Cousins moved, and Delegate Atoosa R. Reaser, seconded the motion that the minutes from the December 4, 2025, Commission meeting be approved. All were in favor; none opposed.

### **Election of Chair, Commission on VASAP**

The Honorable Gino W. Williams nominated Delegate Patrick A. Hope for Chairman. Delegate Atoosa R. Reaser seconded the nomination. All were in favor; none opposed.

Delegate Hope nominated Senator Scott A. Surovell for the position of Vice Chairman. Ms. Ashley Cole seconded the nomination. All were in favor; none opposed.

### **Legislative Review**

Delegate Cousins provided an overview of HB862 which restructures the existing governance structure and responsibilities of the Commission on VASAP and expands its oversight authority over local alcohol safety action programs. Delegate Cousins stated that a lot of work was put into this legislation and recognized Troy Hatcher, DLS for his excellent work. Delegate Cousins noted that the work is ongoing. She stated that a workgroup, comprised of Commission staff and representatives of local ASAPs; staff of the House Committee on Appropriations and Senate Committee on Finance and Appropriations; representatives of the Virginia Association of Counties (VACO) and the Virginia Municipal League (VML); and any other relevant stakeholders will be convened to address concerns raised by localities regarding funding requirements.

Mr. Morris thanked Delegate Rae Cousins and Senator Richard Stuart for carrying HB862 and SB391 respectively. Mr. Morris expressed appreciation to Commission members for their continued hard work.

Delegate Hope commented that the collaborative workgroups and discussions leading up to the legislation serve as a strong model for future efforts, helping to position VASAP with greater governance and structure moving forward.

Ms. Coleman thanked Delegate Hope and Delegate Cousins for meeting with Commission staff regarding the need for legislation and also acknowledged VACO and VML for their collaboration.

Delegate Hope spoke on HB561, which permits courts to issue restricted licenses with the immediate installation of ignition interlock systems for certain offenders, including those charged with driving while intoxicated, refusal of tests, or repeat offenses. The bill, endorsed by the Commission, has received support from several advocacy groups. Delegate Hope noted that approximately 75 percent of individuals with suspended licenses continue to drive and emphasized that the bill addresses this public safety concern. He thanked the Commission and its staff for their efforts in advancing the legislation with minimal opposition.

Senator Surovell added that the bill represents an important step in improving highway safety through the use of technology and reflects a practical approach to addressing ongoing roadway safety challenges.

### **Update on Tri-River ASAP**

Ms. Hope Brooks, Secretary of the Tri-River ASAP Policy Board and Deputy Director of Middle Peninsula Local Probation & Pretrial Services, provided an update on Tri-River ASAP operations. She reported that the Policy Board has been working closely with Ms. Coleman and commission staff to support the agency's continued progress.

Ms. Brooks shared that, following the passing of Branden Green, staff were given time off to process the incident. Since that time, a new employee has been hired and has successfully passed their certification exam. In response to the tragedy, several localities collaborated to provide safe and supportive workspace for staff. The Essex County Circuit Court offered office space for the Warsaw-based staff member. Remaining staff are currently operating temporarily out of the Middlesex Courthouse, following a brief period at the Newport News DMV, while efforts continue to secure permanent space in Gloucester County.

Ms. Brooks noted that the Policy Board will meet monthly during this period of transition and instability.

She further reported that a new program director has been hired and is scheduled to begin on April 1, 2026. Ms. Brooks expressed appreciation to Ms. Laura Offield, former Director of Tri-River ASAP, for her assistance with payroll and billing operations at the request of the Commission.

Additionally, the Policy Board has secured classroom space in Tappahannock and Gloucester. Classes in Gloucester are expected to begin in May; however, an instructor is still needed for the Tappahannock location.

Ms. Brooks concluded by recognizing Branden Green's dedication to his work and his staff, noting his commitment to improving office efficiency and his passion for helping others.

Ms. Coleman expressed appreciation to Ms. Brooks for her collaboration with the Commission during extraordinary circumstances. She also commended Commission staff for their proactive efforts, particularly stepping in just two weeks before the holiday season, to ensure continuity of services for Tri-River ASAP clients.

Ms. Coleman reported that Tri-River ASAP phone lines were forwarded to the Commission's office, where staff assumed responsibility for enrollments, intakes, classes, financial operations, and IT support. Commission staff also conducted on-site visits to assist with the transition to a new location. She noted that all involved volunteered their time and remained committed to maintaining uninterrupted services.

Additionally, Ms. Coleman extended her gratitude to DMV Commissioner, Mr. Gerald Lackey, for his prompt outreach and support. He offered space within local DMV offices to provide Tri-River ASAP staff with a safe and secure working environment.

### **ASAP Customer Service**

Ms. Jennifer McVeigh, Director of Old Dominion ASAP presented the topic of ASAP Customer Service. Her presentation consisted of 7 best practices in customer service and how those practices apply to the program. Those practices are:

- Personalized Interactions
- Empower One Another
- Consistent Communication
- Proactive Problem Solving
- Quality Assurance
- Streamlined Processes
- Continuous Improvement

There was discussion on how some of the practices related to de-escalation are implemented in the local programs. Ms. Coleman shared that this year's annual VASAP conference will touch on those topics. Ms. Coleman also shared that following the tragic event at Tri-River ASAP, budget amendments were submitted by some ASAPs and subsequently approved to increase local program security. New policies were implemented by the commission. Ms. Coleman also reported that local program directors were encouraged to reach out to their local law enforcement to schedule a building walk-through to determine if there were any safety concerns.

Ms. Wicker spoke on Ms. McVeigh's statement that Old Dominion ASAP is equipped with an AED, Narcan, PPD and First Aid kits and inquired as to what can be done to ensure that all ASAPs have those items. Ms. McVeigh stated that Old Dominion has a fiscal agent and the County provides some of those items along with training.

### **Executive Director's Report**

Ms. Coleman presented the Executive Director's report.

### **Interlock Summary Report**

Ms. Coleman shared the interlock summary report, reporting that RAMD devices increased by 48 units.

### ECM Updates

Ms. Shelby Edwards, Commission on VASAP Office Services Assistant, presented updates on ECM. These updates include the directory lookup tool currently live on the Commission on VASAP's website, which allows users to identify the appropriate ASAP by jurisdiction and access contact information. She also discussed the ECM E-Learning Tool for new hires, designed to standardize onboarding with structured modules, knowledge checks, and practical exercises. Additionally, she introduced the Employee Certification Exam Prep Tool, which will provide self-guided exam preparation using official materials to improve consistency and reduce staff-led prep sessions. Finally, she reviewed the Program Certification Tool, which will automate a review of a larger set of cases for certification, enable interim check-ins, and provide program directors with enhanced oversight. These updates collectively aim to improve consistency, efficiency, and overall program management.

### 2026 Shamrock the Block

Ms. Coleman reported that on March 14, 2026, Commission staff attended the Shamrock the Block Festival in Scott's Addition for the third consecutive year to promote the "Drive Sober" message. The event drew thousands of attendees, many of whom expressed appreciation for VASAP's presence and enthusiasm for receiving this year's promotional giveaways. VASAP also collaborated with event vendors by providing beer trucks with "Drive Sober" cup sleeves. The "Drive Sober" cup sleeves and necklaces were visible throughout the crowd.

Ms. Coleman expressed gratitude to Commission staff, as well as Ms. Ashley Cole and her team from John Tyler ASAP, and Ms. Alicia Kline and her team from Rappahannock Area ASAP, for their participation. She noted that their involvement helped expand the Commission's outreach and enhance public education efforts.

### Tri-River ASAP Debrief

Ms. Coleman expressed gratitude to Ms. Margarette Steele for her support following the tragic event at Tri-River ASAP. She reported that Ms. Steele coordinated a mental health debrief session for all ASAP programs, ensuring that ASAP staff had the opportunity to participate in the debrief session.

### Next Meeting

Ms. Coleman noted that the June meeting is expected to be lengthy, as it will include the review and approval of program budgets. She encouraged all members to attend.

The Honorable George D. Varoutsos announced that his term is coming to an end and that he intends to retire, noting that this will likely be his final meeting. He reflected on his more than 25 years of service, describing it as a privilege.

Delegate Hope expressed appreciation for his longstanding dedication and contributions to the Commission on VASAP. In recognition of his service, many in attendance stood and offered a round of applause.

### 2026 Meeting Dates

June 5th

September 18th

December 3rd

### Adjournment

There being no further business, Delegate Patrick A. Hope, Chairman, adjourned the meeting at 10:50 am.

# **Director Performance Review Process**

# **Annual Performance Evaluation Process for Local ASAP Directors**

Pursuant to § 18.2-273.4(C) of the Code of Virginia, as amended, each local Alcohol Safety Action Program (ASAP) Director shall be subject to an annual performance evaluation conducted by the Executive Director of the Commission on VASAP, or the Executive Director's designee. The purpose of the evaluation process is to ensure continued competency, accountability, fiscal integrity, regulatory compliance, and effective leadership across the statewide VASAP system. This evaluation shall serve as a condition of continued certification and continued eligibility to serve as a local ASAP Director.

## **Evaluation Authority and Oversight**

The annual evaluation shall be administered by the Executive Director of the Commission on VASAP, or their designee, who has expertise in fiscal oversight, program operations, and compliance standards. The evaluation process, evaluation instruments, performance metrics, documentation requirements, and minimum standards for satisfactory performance shall be approved by the Commission prior to implementation. The Commission shall retain ultimate oversight authority over the evaluation framework.

## **Evaluation Period and Timing**

Each evaluation shall cover the applicable fiscal year (July 1 through June 30). Evaluations shall be completed no later than September 30 following the close of the fiscal year to allow sufficient time for review of financial reports, audit findings, certification compliance results, and other year-end performance data. Newly appointed Directors shall receive an initial evaluation after six months of service and thereafter be placed on the annual evaluation cycle.

## **Performance Metrics Categories**

Consistent with § 18.2-273.3(10) and 24VAC35-80-140(C)(3)-(4), each evaluation shall assess performance in the following five core areas:

### **1. Management and Supervision of Staff**

The Director shall be evaluated on leadership effectiveness, supervision of employees, enforcement of the ASAP Code of Conduct, completion of employee evaluations, staff certification compliance, continuing education compliance, and adherence to Commission on VASAP guidance documents. Evaluation shall include review of staffing stability, timely corrective actions, and responsiveness to Commission directives.

### **2. Fiscal and Budgetary Management**

The Director shall be evaluated on budget development and submission timeliness, adherence to Commission-approved budgets, maintenance of required 12-month reserves, compliance with target collection rate standards, submission of monthly financial reports, audit results, internal controls, and prevention of unauthorized expenditures. Consideration shall also be given to the Director's stewardship of public and offender fee revenues.

### **3. Compliance with Commission Standards and Regulations**

The Director shall be evaluated on compliance with the Commission on VASAP Certification Manual, regulatory requirements under 24VAC35-80, case management standards, data reporting requirements, and any corrective action plans. This category shall include review of certification findings, conditional certifications (if applicable), timeliness of remedial measures, and responsiveness to Commission oversight.

**4. Integrity and Accountability in Program Operations**

The Director shall be evaluated on ethical conduct, transparency in operations, accuracy of reporting, safeguarding of confidential information, cooperation with audits or investigations, and avoidance of conflicts of interest. Verified findings of mismanagement, concealment of financial information, or unethical conduct shall weigh heavily in this category.

**5. Cooperation with Courts, Law Enforcement, and Community Partners**

The Director shall be evaluated on stakeholder engagement, responsiveness to judicial and law enforcement inquiries, participation in required meetings, maintenance of professional working relationships with Commonwealth's Attorneys, defense bar representatives, clerks, law enforcement agencies, community services boards, and other community partners. Evidence of sustained collaboration and constructive problem resolution shall be considered positively.

**6. Communication with Localities**

The Director shall be evaluated on effective communication with their fiscal agent locality and localities they serve regarding program finances and operations.

## **Evaluation Methodology**

The evaluation shall be conducted using a standardized Commission-approved evaluation instrument. The process shall include:

- Review of financial reports, audit findings, and collection data;
- Review of certification status and compliance documentation;
- Review of staff certification and training records;
- Analysis of performance metrics established by the Commission;
- Consideration of documented stakeholder feedback where applicable;
- Opportunity for the Director to submit a written self-assessment; and
- A structured evaluation meeting (virtual or in-person) between the evaluator and the Director.

Each performance category shall be rated using defined performance levels (e.g., Exceeds Standards, Meets Standards, Needs Improvement, Unsatisfactory), with written justification required for any rating below "Meets Standards."

## **Performance Determination and Certification Impact**

To maintain certification eligibility, an ASAP director must receive a minimum rating of "Meets Standards" in all performance metrics categories. A rating below "Meets Standards" in any category may result in one or more of the following actions:

- Development of a mandatory corrective action plan with specific timelines;
- Conditional certification status;
- Additional training requirements;
- Follow-up review within six months; or
- Suspension or revocation of the ASAP director's VASAP Certification Letter pursuant to 24VAC35-80-140.

Failure to satisfactorily complete the annual evaluation or failure to demonstrate improvement under a corrective action plan may constitute grounds for denial, suspension, or revocation of certification consistent with statutory authority.

## **Documentation and Recordkeeping**

All evaluations shall be documented in writing, signed by the evaluator, and acknowledged by the Director. If a Director refuses to sign the evaluation, the evaluator shall note "refused to sign" on the document. Evaluation records shall be maintained by the Commission as part of the Director's certification file and shall be subject to applicable confidentiality and personnel record requirements under state law. Evaluation records shall be sent to the designated human resources personnel for the program's fiscal agent locality.

## **Appeals and Review**

Any adverse certification action resulting from an evaluation shall be subject to the Administrative Process Act and applicable appeal rights as provided in regulation. The evaluation itself shall serve as the evidentiary foundation for any certification determination.

## **Continuous Improvement**

The Commission may periodically review and revise the evaluation process, performance metrics, and documentation standards to ensure alignment with statutory mandates, regulatory requirements, statewide operational data, and best practices in public program administration.

# ASAP DIRECTOR ANNUAL PERFORMANCE EVALUATION FORM

## I. GENERAL INFORMATION

Director Name: \_\_\_\_\_

Local ASAP: \_\_\_\_\_

Fiscal Agent Locality: \_\_\_\_\_

Evaluation Period (Fiscal Year): July 1, \_\_\_\_\_ – June 30, \_\_\_\_\_

Date of Evaluation: \_\_\_\_\_

Evaluator (Executive Director or Designee): \_\_\_\_\_

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## II. EVALUATION RATING SCALE

- Exceeds Standards – Performance consistently exceeds statutory, regulatory, and operational expectations.
  - Meets Standards – Performance fully meets required expectations and standards.
  - Needs Improvement – Performance does not consistently meet required standards; corrective action required.
  - Unsatisfactory – Performance fails to meet minimum standards; significant corrective action required.
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### 1. MANAGEMENT & SUPERVISION OF STAFF

#### Performance Areas Considered:

- Leadership effectiveness and professionalism
- Completion of annual employee evaluations
- Staff certification and continuing education compliance
- Enforcement of ASAP Code of Conduct
- Adherence to Case Management Operational Guidelines
- Organizational stability and workforce oversight
- Responsiveness to Commission directives

#### Rating:

- Exceeds Standards
- Meets Standards
- Needs Improvement
- Unsatisfactory

**Evaluator Comments:**

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**2. FISCAL & BUDGETARY MANAGEMENT**

**Performance Areas Considered:**

- Timely submission and compliance with Commission-approved budget
- Monthly financial report accuracy and timeliness
- Target collection rate performance
- Audit results and financial controls
- Appropriate reserve management
- Proper stewardship of offender fee revenue
- Coordination with Fiscal Agent Locality

**Rating:**

- Exceeds Standards
- Meets Standards
- Needs Improvement
- Unsatisfactory

**Evaluator Comments:**

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**3. COMPLIANCE WITH COMMISSION STANDARDS & REGULATIONS**

**Performance Areas Considered:**

- Compliance with Commission on VASAP Certification Manual
- Adherence to 24VAC35-80 regulations
- Timely completion of corrective action plans
- Data reporting accuracy and timeliness
- Cooperation during audits, reviews, or investigations
- Maintenance of valid fiscal agent locality

**Rating:**

- Exceeds Standards
- Meets Standards
- Needs Improvement
- Unsatisfactory

**Evaluator Comments:**

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**4. INTEGRITY & ACCOUNTABILITY IN PROGRAM OPERATIONS**

**Performance Areas Considered:**

- Ethical leadership and transparency
- Protection of confidential offender information
- Avoidance of conflicts of interest
- Accuracy and completeness of reporting
- Prevention of misuse or concealment of funds
- Professional conduct reflecting positively on the statewide VASAP system

**Rating:**

- Exceeds Standards
- Meets Standards
- Needs Improvement
- Unsatisfactory

**Evaluator Comments:**

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**5. COOPERATION WITH COURTS, LAW ENFORCEMENT & COMMUNITY PARTNERS**

**Performance Areas Considered:**

- Professional relationships with judges and clerks
- Responsiveness to Commonwealth’s Attorneys and defense counsel
- Engagement with law enforcement agencies
- Collaboration with Community Services Boards and treatment providers
- Stakeholder communication and issue resolution
- Participation in required meetings

**Rating:**

- Exceeds Standards
- Meets Standards
- Needs Improvement
- Unsatisfactory

**Evaluator Comments:**

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**IV. OVERALL PERFORMANCE SUMMARY**

**Overall Rating:**

- Exceeds Standards
- Meets Standards
- Needs Improvement
- Unsatisfactory

**Summary of Strengths:**

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**Areas Requiring Improvement (if applicable):**

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**V. CORRECTIVE ACTION PLAN**

Not Required

Required

Timeline for Completion: \_\_\_\_\_

Follow-Up Review Date: \_\_\_\_\_

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**VI. DIRECTOR COMMENTS**

The Director may provide written comments regarding this evaluation:

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**VII. CERTIFICATION DETERMINATION**

Certification Maintained

Conditional Certification (Extended Corrective Period of \_\_\_ days)

Suspension of VASAP Certification Letter for \_\_\_ days.

Revocation of VASAP Certification Letter.

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**VIII. SIGNATURES**

Evaluator Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Director Signature: \_\_\_\_\_ Date: \_\_\_\_\_

If Director refuses to sign, evaluator shall note: "Refused to sign."

Evaluator Initials: \_\_\_\_\_ Date: \_\_\_\_\_

# ASAP DIRECTOR CORRECTIVE ACTION PLAN

Commission on the Virginia Alcohol Safety Action Program (VASAP)

**Director Name:** \_\_\_\_\_

**Local ASAP:** \_\_\_\_\_

**Date Issued:** \_\_\_\_\_

**Evaluation Period:** \_\_\_\_\_

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Pursuant to the authority of the Commission on the Virginia Alcohol Safety Action Program and in accordance with the requirements governing continued certification of Local ASAP Directors, this Corrective Action Plan (CAP) is hereby issued as a result of findings identified during your annual performance evaluation.

The evaluation determined that performance deficiencies exist in one or more areas requiring immediate corrective action in order to ensure compliance with statutory requirements, Commission regulations, certification standards, and statewide operational expectations. The purpose of this Corrective Action Plan is to provide clear notice of the identified deficiencies, establish measurable expectations for improvement, and outline the timeframe within which corrective action must be achieved.

The specific areas requiring improvement are as follows:

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The following corrective actions are required to address the identified deficiencies:

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During this corrective period, your performance may be subject to enhanced monitoring, which may include, but is not limited to, submission of supplemental reports, financial oversight reviews, documentation of compliance measures, progress meetings with the Executive Director of the Commission on VASAP, or designee, and verification of remedial training or technical assistance participation. You are responsible for providing documentation sufficient to demonstrate compliance and sustained improvement.

At the conclusion of the corrective period, a formal follow-up review will be conducted to determine whether the required improvements have been achieved. If satisfactory improvement is demonstrated, no further corrective action will be required, and you will return to standard certification status. If partial improvement is demonstrated, the Executive Director of the Commission on VASAP may, in their discretion, extend the corrective period under conditional certification.

Failure to demonstrate satisfactory improvement within the specified timeframe, failure to comply with the terms of this Corrective Action Plan, or continued performance deficiencies may result in disciplinary action. Such disciplinary action may include conditional certification, suspension of certification, or revocation of your VASAP Certification Letter by the Executive Director of the Commission on VASAP, consistent with statutory

authority and Commission regulations. Revocation of certification would render you ineligible to perform local ASAP services in the Commonwealth of Virginia.

This Corrective Action Plan is issued to preserve the integrity of the statewide VASAP system, ensure compliance with Commission standards, and support your successful performance as a Local ASAP Director.

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**Executive Director Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Director Acknowledgment:** \_\_\_\_\_ **Date:** \_\_\_\_\_

If the Director refuses to sign, the Executive Director shall note: "Refused to sign" and initial accordingly.

# **ACTION PLAN FOLLOW-UP REVIEW DETERMINATION FORM**

Commission on the Virginia Alcohol Safety Action Program (VASAP)

**Director Name:** \_\_\_\_\_

**Local ASAP:** \_\_\_\_\_

**Date Corrective Action Plan Issued:** \_\_\_\_\_

**Corrective Period Deadline:** \_\_\_\_\_

**Date of Follow-Up Review:** \_\_\_\_\_

**Evaluator (Executive Director or Designee):** \_\_\_\_\_

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## **I. PURPOSE OF REVIEW**

This follow-up review is conducted pursuant to the Corrective Action Plan (CAP) issued to the above-named Local ASAP Director. The purpose of this review is to determine whether the ASAP director has demonstrated satisfactory, measurable, and sustained improvement in the identified areas of deficiency within the timeframe established by the Commission.

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## **II. AREAS IDENTIFIED IN CORRECTIVE ACTION PLAN**

The following deficiencies were identified in the CAP:

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## **III. SUMMARY OF DIRECTOR'S CORRECTIVE ACTIONS**

The Director provided the following documentation and/or evidence of corrective action:

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**IV. FINDINGS OF THE EXECUTIVE DIRECTOR OR DESIGNEE**

After review of all submitted documentation, financial reports, compliance records, and any supplemental materials, the findings are as follows:

**Satisfactory Improvement Demonstrated**

The Director has met the requirements of the Corrective Action Plan. Deficiencies have been adequately resolved, and compliance with Commission standards has been restored.

**Partial Improvement Demonstrated**

The Director has demonstrated measurable progress but has not fully satisfied all corrective requirements. Conditional certification and/or an extended corrective period is warranted.

**Insufficient Improvement Demonstrated**

The Director has failed to demonstrate satisfactory improvement or has failed to comply with the terms of the Corrective Action Plan.

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**V. DETERMINATION**

Based on the findings above, the following action is taken:

Return to Full Certification Status

Grant Full Certification Status

Conditional Certification (Extended Corrective Period of \_\_\_\_\_ days)

Revocation of VASAP Certification Letter.

**ADDITIONAL COMMENTS**

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**VII. NOTICE REGARDING DISCIPLINARY ACTION**

Continued insufficient improvement, or non-compliance, may result in further disciplinary action, up to suspension or revocation of your VASAP Certification Letter. Any such action shall be subject to applicable due process requirements.

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**Executive Director Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Director Acknowledgment:** \_\_\_\_\_ **Date:** \_\_\_\_\_

If the Director refuses to sign, the Executive Director shall note: "Refused to sign" and initial accordingly.

# NOTICE OF REVOCATION OF VASAP CERTIFICATION LETTER

(Date)

Dear \_\_\_\_\_,

Pursuant to the authority granted to the Commission on the Virginia Alcohol Safety Action Program (VASAP) under § 18.2-273.8 of the Code of Virginia and 24VAC35-80-140 of the Virginia Administrative Code, this correspondence serves as formal notice that your **VASAP Certification Letter is hereby REVOKED**, effective immediately as of \_\_\_\_\_.

This action is taken following a review of documented findings and determinations that you have failed to comply with statutory, regulatory, and certification requirements governing local ASAP directors. The Executive Director of the Commission on VASAP has determined that revocation is warranted based upon the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

These findings include, but are not limited to, failure to demonstrate sustained competency in management and supervision, fiscal and budgetary oversight, regulatory compliance, operational integrity, cooperation with required oversight, and/or failure to satisfactorily complete a Corrective Action Plan within the established timeframe. The Commission has further determined that the identified deficiencies are substantial in nature and inconsistent with the standards required to maintain certification and to protect the integrity of the statewide VASAP system.

Effective immediately upon revocation, you are prohibited from performing any local ASAP services in the Commonwealth of Virginia. This prohibition includes, but is not limited to:

- Management or supervision of a local ASAP;
- Case management or probation services;
- Fiscal oversight or budget administration;
- Court representation or testimony on behalf of a local ASAP;
- Administrative functions requiring a valid VASAP Certification Letter; or
- Any other duties performed under the authority of a VASAP Certification Letter.

You are directed to immediately surrender your VASAP Certification Letter to the Commission within fifteen (15) calendar days of the date of this notice. Failure to do so may result in additional enforcement action.

Revocation of certification renders you ineligible to perform local ASAP services in the Commonwealth of Virginia unless and until such time as the Executive Director of the Commission on VASAP, in their sole discretion and consistent with applicable law and regulation, authorizes eligibility for reapplication.

You have the right to seek judicial review of this decision pursuant to the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) by requesting an agency administrative hearing. To do so, you must file such a request in writing within 30 days of this letter with the Commission staff. Any appeal must be filed in accordance with the procedures and time limitations set forth in the Administrative Process Act. The

filing of an appeal does not automatically stay the effect of this revocation unless otherwise ordered by a court of competent jurisdiction.

This action has been taken to preserve the integrity, fiscal accountability, and public trust of the Virginia Alcohol Safety Action Program system and to ensure compliance with statewide statutory and regulatory requirements.

If you have questions regarding this notice, you may contact the Commission office.

Sincerely,

Angela D. Coleman, Executive Director  
Commission on the Virginia Alcohol Safety Action Program

**Review & Approval  
of  
ASAP Regulations  
Certification Manual  
RAMD Regulations  
Interlock Regulations**

Project 8591 - None

**Commission On The Virginia Alcohol Safety Action Program**

**Amendments to the Virginia Alcohol Safety Action Program Regulations**

**24VAC35-80-10. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

~~"ASAP" means an alcohol safety action program established by the commission or any county, city, town, or any combination thereof, as provided in § 18.2-271.1 of the Code of Virginia, for the purposes of providing probation, education, and rehabilitation services for individuals referred to the program by the court, the DMV, or any other commission-approved referral source.~~

"Annual meeting" means a meeting of the local ASAP policy board designated in the bylaws for the purpose of electing officers and filling expired member terms that is open to the public in accordance with state and federal Freedom of Information Act laws.

"Approved treatment provider" means a treatment provider approved for inclusion in the commission treatment provider directory.

"ASAP Code of Conduct" means a standard of ethics for all local ASAP employees.

~~"ASAP director" means the person who provides supervisory, managerial, or oversight of an alcohol safety action program.~~

"Budget" means a written financial plan for expenditures of a program for a given period of time that is subject to approval by the commission.

"Case Management Operational Guidelines" means a manual, created by the commission, establishing case management policy and procedure guidelines.

"Case management system" means the electronic system designated by the commission for the exchange of information between local ASAPs, approved treatment providers, and any other entity approved by the executive director.

"Certification" means the process of certifying local ASAPs as set forth in the Commission on VASAP Certification Manual or the process for certifying local ASAP employees to provide local ASAP services in

~~the Commonwealth of Virginia~~ and to local ASAP offenders residing out of state.

"Commission" means the Commission on Virginia Alcohol Safety Action Program or its designee.

"Commission on VASAP Certification Manual" means the Commission on the VASAP Certification Manual, version January 3, 2023, a manual required by ~~§ 18.2-274.2~~ § 18.2-273.3 of the Code of Virginia to be created by the ~~Commission~~ commission, which evaluates an a local ASAP for its organization management, fiscal standing, and overall operation.

"Community service board" means a community service board as established by Chapter 5 (§ 37.2-500 et seq.) of Title 37.2 of the Code of Virginia.

"Conflict of interest" means any financial, professional, contractual, personal, or business interest that may reasonably be expected to impair independence of judgment, create preferential treatment, result in financial gain, or undermine public confidence in the administration of a local ASAP.

"DMV Department" means the Virginia Department of Motor Vehicles.

"Executive director" means the executive director of the commission.

"Executive finance committee" means the advisory subcommittee of the commission composed of the executive director ~~of and such other members as the commission, two may designate that is authorized to take action on behalf of the~~ commission members, and such other persons for a period not to exceed 90 days in matters of program certification, suspension, or related fiscal oversight.

"Fiscal agent locality" means the county, city, or town, pursuant to § 18.2-273.6 of the Code of Virginia, that serves as the financial and human resources administrator for a local alcohol safety action program.

"Local alcohol safety action program" or "local ASAP" means a program established pursuant to § 18.2-273.4 of the Code of Virginia that provides probation, education, and rehabilitation services for persons referred by a court, the department, or any other source approved by the commission.

"Local ASAP director" or "ASAP director" means local ASAP employee responsible for the supervisory, managerial, and operational oversight of a local alcohol safety action program, including supervision of local ASAP employees, fiscal and budgetary management, and compliance with commission standards and regulations. The term includes any individuals serving in an interim, acting, or deputy capacity.

"Local ASAP employee" or "ASAP employee" means any individual employed, appointed, assigned, detailed, or otherwise engaged by a local alcohol safety action program to perform any duties or service on

behalf of, in support of, or under the authority of the local ASAP, regardless of title, classification, funding source, compensation method, schedule, or work location. The term includes full-time, part-time, temporary, probationary, seasonal, intermittent, acting, or detailed personnel and encompasses administrative, supervisory, managerial, executive, operational, compliance, financial, technical, and support roles. The term specifically includes any individual serving as ASAP director, interim director, acting director, deputy director, or in any equivalent leadership or oversight capacity. Any employee whose duties include, in whole or in part, responsibilities for a local ASAP is deemed an ASAP employee for certification and regulatory purposes. The term excludes instructors, interns, or facilitators who provide services solely as independent contractors under a written contract and who are not otherwise employees of the local ASAP and any policy board member.

"Policy board" means an the local independent ASAP policy board that is advisory in nature, chosen and operated in accordance with procedures promulgated by the commission established pursuant to § 18.2-273.5 of the Code of Virginia to provide local governance, budget approval, and initial approval and work in consultation with the fiscal agent of the local ASAP regarding employee matters of a certified local alcohol safety action program.

"Regional leadership team" means a regional team, established by the executive director, charged with assisting local ASAPs in achieving and maintaining commission certification requirements.

"Revenues" means any fee due to or collected by ~~an~~ a local ASAP for services provided by the local ASAP.

"Supplemental or emergency funding" means funds allocated by the commission pursuant to § 18.2-273.4 D of the Code of Virginia to ensure the continued operation or re-establishment of a local alcohol safety action program experiencing financial hardship or other circumstances that threaten service continuity.

"Target collection rate" means a rate of collection by ~~an~~ a local ASAP of offender fees in any given time period equal to or greater than 90% of offender fees owed to the program for services provided during the same given time period. The given time period shall be established by the commission.

"Third-party provider" means any individual or entity that provides services to local ASAP-referred participants, including treatment, ignition interlock, remote alcohol, and intelligent speed assistance service providers or manufacturers and any vendor receiving referrals, payments, or participants from a local

ASAP.

"Treatment provider" means an individual, agency, or organization licensed to provide substance use disorder assessment, education, or treatment services to offenders referred by local ASAPs.

"Treatment provider directory" means the commission's directory of approved treatment providers used by local ASAPs to facilitate referrals for assessment and treatment services with the offender selecting the provider.

"VASAP" means the Virginia Alcohol Safety Action Program.

"VASAP Certification Exam" ~~is~~ means a commission-created certification exam that is administered by the commission to local ASAP employees and is part of the application process for individuals seeking a VASAP Certification Letter to perform local ASAP services in ~~the Commonwealth of Virginia~~ and for local ASAP offenders residing out of state. Successful completion of the exam requires a score of 80% or higher.

"VASAP Certification Letter" means a certification letter issued by the commission verifying certification as required by § 18.2-273.8 of the Code of Virginia to any eligible local ASAP employee authorizing the employee to perform local ASAP-related duties in ~~the Commonwealth of Virginia~~. Local ASAP-related duties include management of cases, administrative functions, courtroom testimony, supervision of employees, program management, or any other duty determined by the commission. The letter shall be issued in a format and method determined by the commission.

**24VAC35-80-40. ~~Alcohol~~ Local alcohol safety action program administrative structure and accessibility.**

A. ~~Alcohol~~ Local alcohol safety action programs shall consist of, at a minimum, ~~an~~ a local ASAP director, staff deemed necessary by the commission, and the local policy board to efficiently accomplish all duties of the program.

B. Local ASAPs shall be accessible to the public for all local ASAP-related services during days and times established by the commission. The commission shall determine the method of accessibility.

C. Local ASAPs that incur a pattern of verified sub-standard customer service complaints resulting in the use of commission resources, including rental vehicle expenses, fuel, labor hours, and office supplies, may be billed by the commission for any ~~of the aforementioned~~ accrued expenses in their entirety. Local ASAPs that are billed by the commission for reimbursement under this section shall remit a payment to the commission within 30 days of the date of the invoice sent by the commission to the local ASAP unless

otherwise approved by the executive director.

**24VAC35-80-50. Alcohol ~~Local alcohol~~ safety action program policy boards.**

A. Each local ASAP shall operate under the direction of a local independent policy board, ~~advisory in nature~~, chosen in accordance with procedures approved and promulgated by the commission. The local policy board shall review and approve annual program budgets, participate with the fiscal agent in hiring and firing of the program director and other personnel, and meet as required by this section.

B. The policy board shall consist of five to 15 members. The governing bodies of each participating jurisdiction shall appoint one member for a term of three years. The remaining members shall be elected for a term of three years by majority vote of those members selected by each represented locality unless these appointments are the first appointments to the policy board.

C. Upon initial appointment of a policy board, one-third of the members shall be appointed for one year, one-third of the members shall be appointed for two years, and one-third of the members shall be appointed for three years. Local ASAP employees shall not serve as a member of the policy board outside of an ex officio capacity.

D. The policy board members not appointed by the governing bodies of represented jurisdictions, at the discretion of the policy board, shall be selected from the Bar Association, law enforcement, and education and treatment professionals, at a minimum.

E. The designated terms of office for each member may be modified if approved by the commission.

F. Policy board vacancies shall be filled by a majority vote of the remaining policy board members from the nomination of other policy board members and the participating governing bodies of the jurisdiction.

G. Policy board members shall be selected by the commission in situations where the locality cannot agree on policy board member selections.

H. The officers of the policy board shall consist of a chairperson and such subordinate officers as the policy board may elect or appoint. Each policy board (i) shall include at least one Commonwealth attorney member, a defense attorney member who practices DUI law, a law-enforcement member, and a ~~behavioral health~~ local community service board member and (ii) may appoint a local sitting or retired ~~District Court~~ district court judge who regularly hears or heard cases involving driving under the influence and is familiar with local alcohol safety action programs. Members shall serve without compensation. The offices of the chairperson, and vice-chairperson if one is elected, shall be held by members from different participating

jurisdictions. The policy board chair is subject to final confirmation approval by the executive director. ~~Individuals serving in a policy board chair capacity prior to June 21, 2023, shall apply to the executive director for approval to remain in their current position within 30 days of June 21, 2023.~~

I. Excluding the original officers, who shall be elected at the second meeting after the formation of the board, each officer shall be elected at the annual meeting of the board to serve a term of three years. Terms of office shall not be modified without commission approval. Vacancies occurring in any office shall be filled by the board for the unexpired term.

J. Election of officers requires that a majority of policy board members be present and voting in order to be valid. Members who are unable to attend may vote in any election by letter directed to the chairman and delivered prior to, or at, the meeting. At the regular meeting of the policy board immediately preceding the annual meeting, the chairman shall appoint a nominating committee, which shall present to the policy board at its annual meeting a slate of nominees for election as officers and a slate of nominees to fill any policy board vacancies. All policy board members and officers shall take office on the first day of the month following their election and shall serve until their successors take office. No officer shall serve more than two consecutive terms in office.

~~K. The annual meeting of the board is that meeting so designated in the bylaws for the purpose of electing officers and filling expired member terms and shall be open to the public.~~

~~L. K.~~ Regular meeting of the policy board shall be held quarterly. Special meetings may be called at the policy board's pleasure. The policy board is required to provide notice to the public of all meetings as required by state and federal Freedom of Information Act laws. If a policy board fails to meet as required, the commission may reconstitute or replace the policy board, appoint interim members, or implement any other corrective action the commission deems necessary.

~~M. L.~~ The policy board or its executive committee may go into executive session when legally appropriate.

~~N. M.~~ Policy board meetings shall adhere to state and federal Freedom of Information Act laws.

~~O. N.~~ The policy board may change the date and time of any regular meeting at any prior meeting and may adjourn any meeting to another place if notice of the change is provided in adherence to state and federal Freedom of Information Act laws.

~~P. O.~~ Two-thirds attendance of the policy board membership shall constitute a quorum for any policy

board meeting.

~~Q. P.~~ The commission may merge, reconstitute, disband, or regionalize a policy board in instances where the commission is merging or regionalizing the local ASAP in which the policy board provides oversight.

~~Q.~~ Policy board members charged with a class 1 misdemeanor or felony shall be immediately suspended from the policy board, with voting privileges revoked, until the charge is adjudicated. The executive director will advise the appointing authority of the suspension and will collaborate with the appointing authority to determine the member's eligibility to be reinstated. The commission retains the right to determine continued program certification should policy board members be deemed inappropriate to serve.

~~R.~~ Effective January 1, 2028, each local ASAP shall have written bylaws governing the operation of its policy board and the internal affairs of the program. Current or proposed bylaws and any amendments shall be submitted to the local ASAP's fiscal agent for prior approval to adoption by the policy board. Following fiscal agent approval, bylaws and amendments shall be adopted. Bylaws shall not conflict with commission regulations. Any provision that conflicts with commission regulations or directives shall be void to the extent of the conflict. Bylaws not approved by this date shall not be considered in effect until approved by the local ASAP's fiscal agent.

~~S.~~ Policy board members are expected to attend all regular and special meetings of the policy board. A policy board member shall be absent no more than two regular policy board meetings in the calendar year. A policy board member who anticipates absence from a third or subsequent meeting within the same calendar year shall request approval in advance from the appointing authority. The executive director reserves the right to request removal of any policy board member who accumulates three or more absences in a calendar year without prior approval from the appointing authority. Local ASAP policy board meeting minutes shall be submitted to the commission on a quarterly basis.

**24VAC35-80-55. Local government funding and fiscal agent obligations.**

~~A.~~ The provisions of this section are promulgated pursuant to §§ 18.2-273.4 and 18.2-273.6 of the Code of Virginia and shall become effective January 1, 2028.

~~B.~~ Each county, city, or town that has established or jointly participates in a local ASAP shall provide financial support necessary to sustain the operations of the local ASAP in accordance with the

requirements of this section.

C. Each local ASAP shall submit an annual budget to the commission pursuant to 24VAC35-80-80. The budget shall identify:

1. Projected program revenue derived from offender fees and other authorized sources;
2. Projected operational expenditures necessary to maintain program services;
3. Current reserve balances; and
4. Any anticipated funding shortfall for the upcoming fiscal year.

Following approval of the annual budget by the commission, each local ASAP shall determine the local funding requirement, which shall equal the commission-approved annual budget minus projected revenues and available program reserve funds. Reserves include all unexpended revenue to include money in operational accounts, certificates of deposit, or any other asset the commission determines as unexpended revenue. A local ASAP seeking to receive funding from any municipality shall submit a request to the executive director for approval before such request. The request shall be submitted in a format established by the executive director. The executive director will notify the local ASAP director and policy board chair in writing of the final decision.

D. For a local ASAP serving a single jurisdiction, the participating locality shall provide financial support necessary to fund the commission-approved budget after projected revenues are applied. For a local ASAP serving multiple jurisdictions, participating localities shall provide financial support sufficient to meet the local funding requirement in accordance with a written funding agreement approved by the commission.

E. A local ASAP serving more than one locality shall maintain a written funding agreement among all participating localities that establishes the methodology for allocating program operational costs. The funding agreement shall:

1. Define the methodology used to allocate financial responsibility among participating jurisdictions;
2. Identify the fiscal agent locality responsible for financial administration;
3. Establish procedures for annual review of funding obligations; and
4. Be submitted to the commission for review and approval as a condition of program certification.

The commission shall review the funding agreement to ensure the cost allocation methodology equitably distributes program costs among participating jurisdictions.

F. Unless otherwise approved by the commission, the cost allocation methodology for a multi-jurisdiction local ASAP shall be based upon the proportion of program referrals originating from each participating locality during the preceding fiscal year. The financial share attributable to each participating locality shall be calculated by multiplying the total local funding needed by the program by the number of the locality's referrals into the local ASAP divided by the number of total referrals into the local ASAP for the same time period. Alternative allocation methodologies may be approved by the commission if the participating jurisdictions demonstrate that the methodology equitably distributes program costs. Such methodologies may include factors such as population, historical utilization, or other measurable program demand indicators.

G. Upon determination of the funding requirement and allocation of financial responsibility, the local ASAP shall provide written notice to each participating locality and to the commission. The notice shall include:

1. The commission-approved program budget;
2. Projected program revenues;
3. The calculated funding requirement;
4. The cost allocation methodology used; and
5. The funding share attributable to each locality.

Participating localities shall provide financial support through annual appropriations in the locality's local budget or through other funding mechanisms agreed to by the participating jurisdictions.

H. The commission may authorize supplemental or emergency funding when a local ASAP demonstrates that extraordinary and unforeseen circumstances threaten the continuation of mandatory local ASAP services within the affected jurisdiction. Circumstances that may constitute emergency funding include:

1. Sudden and substantial revenue loss not attributable to poor fiscal planning;
2. Natural disaster or declared emergency affecting program operations;
3. Loss of fiscal agent support;
4. Unanticipated facility loss or critical infrastructure failure; or
5. Other circumstances determined by the commission to threaten service continuity.

The existence of a projected budget deficit alone shall not constitute an emergency. Failure or refusal of a participating locality to provide financial support required pursuant to § 18.2-273.4 of the Code of Virginia shall not, by itself, constitute an emergency for purposes of commission supplemental or emergency funding. A local ASAP requesting supplemental or emergency funding shall demonstrate that it has taken reasonable and documented steps to secure required local funding and enforce any commission-approved funding agreement.

I. No local ASAP shall be eligible to request supplemental or emergency funding from the commission unless it has:

1. Maintained a collection rate at or above the target collection rate for a period of 12 consecutive months;
2. Demonstrated compliance with approved funding agreements; and
3. Demonstrated reasonable fiscal planning and management.

Nothing in this subsection shall prohibit the commission, in its discretion, from providing temporary funding necessary to prevent interruption of mandatory services while corrective action is pursued. The commission shall retain sole discretion in determining eligibility, amount, duration, and conditions of supplemental or emergency funding.

**24VAC35-80-60. ~~Alcohol~~ Local alcohol safety action program revenues.**

~~The commission shall be empowered to collect unexpended revenue from local ASAPs in the commission's duties to establish and ensure the maintenance of minimum standards and criteria for program operations and performance, accounting, auditing, public information, and administrative procedures for the various alcohol safety action programs and oversight of the administration of the local statewide VASAP system. In instances where the commission intends to collect unexpended revenue from a local ASAP, the commission shall provide the local ASAP a 30-day notice of the amount of unexpended revenue to be collected and the date of collection by the commission. Once notice of the collection amount and date is given to the local ASAP by the commission, the local ASAP shall release the total amount of the unexpended revenue cited by the commission to the commission within 15 calendar days of the collection date provided by the commission. The payment method shall be established by the commission.~~

A. Local ASAPs shall maintain reserve funds and operational accounts in a manner that ensures fiscal integrity and accountability. All reserve funds must be deposited in a financial institution that is insured by

the Federal Deposit Insurance Corporation (FDIC). Local ASAPs shall not accept cash payments from clients under any circumstances; all payments must be made through traceable and auditable methods as approved by the commission. Additionally, no local ASAP director or program staff shall establish, modify, or maintain any banking or financial account on behalf of the program without the prior written approval of the assigned fiscal agent. These requirements are intended to safeguard public funds, ensure transparency in financial operations, and maintain compliance with applicable state and federal financial management standards.

B. Reserve funds shall be maintained at levels sufficient to ensure the continuity of operations during periods of revenue disruption, unexpected expenditures, or emergencies. Each local ASAP shall establish a target reserve balance, expressed as a minimum number of months of operating expenses, as approved by the executive director. Any reserve levels exceeding or falling below the approved thresholds must be justified in writing and approved by the assigned fiscal agent. Reserve funds shall not be used for routine operating expenses except in circumstances where necessary to maintain program stability, and such use must be documented and reported in accordance with requirements of the executive director.

C. All reserve funds shall be fully accounted for within the program's official financial records and subject to the same internal controls, reconciliation procedures, and audit standards as operating funds. Local ASAPs shall perform regular reconciliations of operational and reserve accounts, at a minimum, on a monthly basis, and such reconciliations shall be reviewed and approved by appropriate supervisory personnel or the fiscal agent. Reserve activity, including deposits, withdrawals, and transfers, must be clearly documented and retained in accordance with applicable retention policies.

D. Withdrawals or transfers from reserve funds shall require prior authorization in accordance with established approval thresholds set by the commission and the assigned fiscal agent. At a minimum, any use of reserve funds must be supported by written justification, demonstrate a clear programmatic need, and receive documented approval from the fiscal agent or other designated authority. Under no circumstances shall reserve funds be used for personal benefit, unauthorized expenditures, or activities outside the scope of the local ASAP's mission.

E. Local ASAPs shall not invest reserve funds in speculative, high-risk, or non-secure financial instruments. Any investment of reserve funds must prioritize preservation of principal, liquidity, and safety, and must comply with applicable state laws and commission policies governing public funds. Permissible investments, if any, must be explicitly approved by the executive director and the assigned fiscal agent.

F. Each local ASAP shall include reserve fund status as part of its regular financial reporting to the commission. Reports shall include current reserve balances, any changes during the reporting period, and explanations for significant fluctuations. The commission reserves the right to impose corrective actions, required reserve replenishment plans, or restrict the use of funds if a local ASAP fails to comply with reserve requirements or demonstrates financial mismanagement.

**24VAC35-80-70. Alcohol Local alcohol safety action program audits and financial records.**

A. Financial records shall be subject to local, state, and federal audits and shall be maintained in an orderly fashion using generally accepted accounting principles and shall be retained per the Library of Virginia retention schedule.

B. An annual income statement shall be submitted to the commission by August 1 of each calendar year.

C. Monthly financial reports shall be submitted to the commission, and for any program that has a designated fiscal agent, to the fiscal agent, by the 15th calendar day of the following month. Effective January 1, 2028, all programs shall have a fiscal agent, and approval shall require the concurrence of both the commission and the program's fiscal agent. Local ASAPs that fail to send in their monthly financial report by the 15th calendar day of the following month shall pay the following daily late fees to the commission, unless otherwise approved by the commission:

1. \$25 daily late fee for the first five calendar days in which the monthly financial report is not received by the commission; and
2. \$100 daily late fee for any calendar days after the first five days in which the monthly financial report is not received by the commission.

Local ASAPs that are more than 15 calendar days late in submitting the prior month's financial report may be decertified by the commission.

D. All local ASAP financial reports, to include monthly financial reports, budgets, or any other financial report required by the commission, shall be submitted to the commission, and for any program that has a designated fiscal agent, to the fiscal agent, via a method established by the commission. A daily financial reconciliation shall be completed every calendar day, including weekends and holidays. Reconciliations for days on which the program is closed shall be completed no later than the next business day unless otherwise approved by the executive director. Each reconciliation shall be completed in a format, contain

such information, and be submitted to the commission, and for any program that has a designated fiscal agent, to such fiscal agent by a method established by the executive director. Effective January 1, 2028, all programs shall have a fiscal agent, and financial reports shall be sent to both the commission and the fiscal agent for all programs.

E. Local ASAPs are required to remit the state share fee payment owed from each monthly financial report to the commission no later than 30 days from the monthly financial report's due date established in subsection C of this section. Any local ASAP failing to meet this requirement shall pay from local ASAP fees the following daily late fees to the commission, unless otherwise approved by the commission:

1. \$25 daily late fee for the first five calendar days in which the monthly financial report state share fee payment is not received by the commission; and
2. \$100 daily late fee for any calendar days after the first five days in which the monthly financial report state share fee payment is not received by the commission.

Local ASAPs that fail to submit required financial reports in accordance with the timelines established in this subsection shall be subject to monetary penalty as prescribed by this subsection. In addition, for any local ASAP that has a designated fiscal agent, the fiscal agent shall be required to appear before the commission's executive finance committee and present a corrective action plan addressing the deficiencies in financial reporting, including specific measures to ensure compliance within 90 days. The fiscal agent shall implement the approved corrective action plan and demonstrate timely improvement. If the local ASAP fails to achieve compliance within the 90-day period, the fiscal agent, if one has been designated, and the local ASAP shall be required to appear before the commission at its next scheduled meeting to address the continued noncompliance. At that time, the commission may take further action, including decertification of the local ASAP. Effective January 1, 2028, when each ASAP is required to have a designated fiscal agent, the requirements of this section shall apply to both the local ASAP and its fiscal agent for all programs.

F. Local ASAPs shall be subject to an annual financial audit conducted by an independent auditor selected and retained by the commission at the commission's expense. Each local ASAP is required to maintain complete, accurate, and audit ready financial records, internal records, and supporting documentation in accordance with applicable state policies and general accepted accounting principles. In the event that the local ASAP is determined by the commission or its contracted auditor to be unprepared for the scheduled audit, resulting in additional audit procedures, extended field work, delays, or other unanticipated costs, any such incremental expenses occurred beyond the standard audit scope shall be the

responsibility of, and reimbursed by, the local ASAP to the commission. Failure to cooperate fully with the audit process or to maintain adequate records may result in further administrative action as deemed appropriate by the commission.

**24VAC35-80-80. ~~Alcohol~~ Local alcohol safety action program budgets and ~~requests for allocation of commission funds.~~**

A. Local ASAPs are required to submit annual budgets to the commission via a method approved by the commission by May 1 of each calendar year for approval by the commission. Effective January 1, 2028, budgets shall be approved by the local ASAP's fiscal agent prior to submitting to the commission for approval. Submitted budgets shall include all information required by the commission along with the prior year's collection rate. Budgets submitted by local programs with collection rates below the target collection rate are subject to a reduction in the approved budget amount by a percentage equal to the target collection rate minus the actual collection rate.

B. The commission may reduce the approved budget amount for any local ASAP budget by the total salary amount of any employee included in the budget who does not possess a valid VASAP Certification Letter or for any delinquent local ASAP administrative and state share fees owed to the commission.

C. Local ASAPs may use a local political subdivision as a fiscal agent if approved by the commission. Effective January 1, 2028, as a condition of certification by the commission, each local ASAP shall designate a county, city, or town for which it serves to act as its fiscal agent locality. Any desired change in fiscal agent by ~~an~~ a local ASAP shall be submitted to the executive director for approval at least 60 days prior to the desired date of change.

D. In instances where an unforeseen circumstance occurs, which requires a budget amendment, the local ASAP may submit the budget amendment to the commission clearly identifying the circumstances and the dollar amount of the budget amendment change requested. The ~~commission~~ executive director shall respond to the local ASAP on the approval status of the budget amendment within 30 calendar days.

~~E. In instances where an ASAP is requesting an allocation of commission funds, the IASAP is required to submit a commission approved application detailing the reason for the allocation of commission funds request along with other commission requested financial information. ASAPs that own buildings that possess a collection rate below the target collection rate or possess the financial means to fund operations more than six months into the future, factoring in a zero revenue sum over the same period of time, are~~

~~ineligible to apply for an allocation of commission funds from the commission. ASAP requests to the commission for an allocation of commission funds are subject to commission approval. ASAPs that receive substantial financial contributions from their localities and have received these contributions for a substantial period of time prior to their request for an allocation of commission funds, may be eligible for an allocation of commission funds if approved by the commission. Substantial financial contributions and substantial period of time shall be determined by the commission.~~

**24VAC35-80-90. Alcohol Safety Action Program Local alcohol safety action program certification.**

A. The commission shall be empowered to certify, decertify, regionalize, reorganize, or merge local ASAPs, including their finances and personnel, to establish and ensure the maintenance of minimum standards and criteria for program operations and performance, accounting, auditing, public information, and administrative procedures for the various local ASAPs and shall be responsible for overseeing the administration of the statewide VASAP system.

B. Local ASAPs shall adhere to the certification process and procedures for certifying local ASAPs as established in the Commission on VASAP Certification Manual and maintain the required certification standards of the commission at all times.

C. Local ASAPs shall be certified, at a minimum, at least every three years.

D. If ~~an~~ a local ASAP is found to be out of compliance during certification, the local ASAP shall complete an action plan within 10 days of notice of any compliance issue citing the procedures to be implemented to attain compliance. The commission shall conduct a secondary review to validate the corrective action has occurred and make a recommendation for certification if the local ASAP has resolved all outstanding noncompliance issues in a satisfactory manner. If noncompliance issues remain, the local ASAP's conditional certification may be extended or ~~their~~ its full certification may be revoked by the commission.

E. ~~An~~ A local ASAP may submit a waiver in writing to the commission of certification standards that are impacted directly by staffing issues or emergency declarations. An exemption may be granted from a specific local ASAP certification requirement or any part thereof of a requirement by the executive director.

F. The executive director may, at the executive director's discretion, establish or conclude a regional leadership team to assist local ASAPs in achieving and maintaining commission certification standards. The executive director shall establish the members, duties, process, and procedures of the regional

leadership team.

G. Local ASAPs that fail to meet certification standards set forth in the Commission on VASAP Certification Manual may be conditionally certified by the commission permitting the local ASAP to continue to receive referrals from the courts and provide services for DMV department administrative cases. Local ASAPs that have been conditionally certified shall remain conditionally certified pending review at the next commission meeting.

**24VAC35-80-100. Suspension or revocation of certification of an ~~Alcohol Safety Action Program~~ a local alcohol safety action program.**

A. The executive finance committee, for a period not to exceed 90 days, may suspend certification of an local ASAP for the following reasons, including:

1. When an a local ASAP knowingly violates any state or federal law;
2. When an a local ASAP violates any requirements of the Commission on VASAP Certification Manual;
3. When an a local ASAP abuses access to the DMV department system or any system created or co-created by the commission and provided to the local ASAPs by the commission for use;
4. When an a local ASAP consistently fails to adhere to the case management operational guidelines;
5. When an a local ASAP violates law or commits an unethical act that negatively impacts the integrity of the state VASAP system;
6. When there is a pattern of local ASAP noncompliance or customer service issues;
7. When the local ASAP or an the local ASAP's policy board impedes, interrupts, disrupts, or negatively impacts an investigation conducted by the commission of the local ASAP related to customer service issues, a violation of law, financial discrepancies of any form, unethical acts, or any complaint brought forward by a third party;
8. When an a local ASAP attempts to conceal any source of income or financial assets owned by or in control of in whole or in part by the local ASAP;
9. When an a local ASAP uses a treatment service provider that is not on the state approved treatment provider list without prior approval from the commission;

10. When ~~an~~ a local ASAP fails to cooperate, in any way, with the regional leadership team; or
11. When ~~an~~ a local ASAP fails to abide by the recommendations of the regional leadership team;
12. When a local ASAP fails to designate and maintain a valid fiscal agent locality in compliance with § 18.2-273.6 of the Code of Virginia; or
13. When a local ASAP violates any conditions set forth in 24VAC35-80-125 pertaining to conflicts of interest, disclosures, prohibited relationships, or facility use.

The provisions of subdivision A 12 of this section shall become effective January 1, 2028.

B. If a suspension of ~~an~~ a local ASAP occurs by the executive finance committee, the executive director may:

1. Prohibit the suspended local ASAP from receiving any court referrals or from providing services for DMV department administrative cases during the suspension period.
2. Eliminate local ASAP access to the DMV department system or any system created or co-created by the commission and provided to the local ASAP by the commission for use.

C. In cases where the certification of ~~an~~ a local ASAP is suspended, the local ASAP shall continue to provide services for all referrals received prior to the suspension date unless otherwise desired by the commission. The local ASAP will not be permitted to receive referrals from the court or provide services for DMV department administrative cases during the period of suspension unless otherwise approved by the commission.

D. In cases where an local ASAP decides to dissolve on its own accord, the local ASAP shall continue to provide services for all referrals received up until the date the local ASAP communicates to the commission its intent to dissolve. The local ASAP shall continue services for these referrals until all referrals are completed in a satisfactory manner as determined by the commission.

E. Local ASAPs that fail to meet the certification standards set forth in the Commission on VASAP Certification Manual and are not conditionally certified by the commission pursuant to 24VAC35-80-90 G shall have their certification revoked and shall be prohibited from receiving referrals for service from any court or providing services for DMV department administrative cases indefinitely unless otherwise approved by the commission. If the certification of ~~an~~ a local ASAP is revoked, the local ASAP shall be responsible for the continued monitoring of referrals received and all duties normally entailed prior to the revocation of

certification until all referrals are properly managed and permanently closed, unless otherwise approved by the commission.

F. Upon issuance of a final order of decertification by the commission, the decertified local ASAP shall immediately cease expending program funds, excluding payroll and employee benefits, taxes owed, and any other funds expressly authorized in writing by the commission. The local ASAP shall not incur new financial obligations, enter into contract, transfer or encumber assets, or otherwise dispose of funds or property. The effective date of decertification shall trigger the mandatory transfer and reversion provisions set forth in this subsection.

G. Within three business days of the effective date of decertification, all financial accounts associated with the decertified program shall be frozen, excluding funds, property, and in-kind municipality contributions to the program, for outgoing disbursements except as authorized by the commission. The governing board or fiscal agent of the decertified local ASAP shall take all necessary action to revoke existing authorized signatories and designate individuals identified by the commission as replacement signatories where required to effectuate transfer. Within five days of the effective date of decertification, all unexpended revenues, reserve balances, and other liquid funds held by or for the benefit of the decertified local ASAP shall be transferred to an account designated by the commission by electronic transfer or other method approved by the commission. If electronic transfer is not feasible, funds shall be delivered by certified check payable to the Treasurer of Virginia. Within 10 business days of decertification, the decertified local ASAP shall provide to the commission complete financial accounting as of the date of decertification, including a balance sheet, statement of revenues and expenditures, list of accounts receivable, list of outstanding obligations, and identification of any restricted funds. Failure to comply with this section may result in civil recovery actions and referral to the Office of the Attorney General.

H. Upon decertification, all accounts receivable of the local ASAP shall be deemed assigned by operation of law to the commission. The decertified local ASAP shall provide all billing records, payment histories, and access credentials necessary to permit the commission to collect outstanding amounts. The commission may establish new remittance instructions, utilize state-approved collections mechanisms, or otherwise take necessary action to recover outstanding program fees.

I. Within five business days of decertification, the decertified program shall surrender to the commission all property acquired with program funds, including buildings, equipment, furniture, electronic systems, software licenses, contractual documents, client files, and administrative records. This property excludes

funds, property, and in-kind municipality contributions to the program. Electronic records shall be transferred in a format approved by the commission to ensure continuity of services and preservation of data integrity. The commission may take immediate possession of physical premises or property where necessary to protect program assets or records.

J. All funds and assets reverted pursuant to this section shall be deposited with the Treasurer of Virginia in an account designated for the affected jurisdiction. Such funds shall be used solely for the administration of interim services, contractual service delivery, reestablishment or certification of a successor local ASAP, administrative costs of transition, and audit or compliance activities associated with the decertification. No funds shall revert to any former governing board, officer, locality, or private entity.

K. In the event a local ASAP is decertified by the commission, the executive director shall notify the chief judges and clerks of affected courts within 10 business days of decertification and shall provide updated referral instructions and contact information. Participants enrolled prior to decertification shall continue services through interim administration by the commission or through commission reassignment to an authorized provider.

L. The commission may offer temporary employment or contractual engagement to qualified former staff of the decertified program when such action is necessary to preserve continuity of services. Nothing in this section shall create an entitlement to employment. The commission may decline to retain certification for any local ASAP employee whose conduct contributed to the basis for suspension or decertification.

M. During the interim administration period, the commission shall facilitate the reestablishment or certification of a new local ASAP to serve the affected jurisdiction. The commission may solicit applications, conduct technical assistance sessions, and establish evaluation criteria addressing governance structure, fiscal integrity, staffing capacity, and ability to maintain statewide standards.

N. Interim administrative authority shall cease upon certification of a successor program or expiration of 12 months from the date of decertification, whichever occurs first, unless extended by the commission for good cause for a period not to exceed six additional months. Upon certification of a successor program, the commission shall transfer any remaining funds attributable to a jurisdiction within 10 business days and shall complete a final accounting of interim operations.

O. The commission shall maintain documentation of all actions taken pursuant to this section, including the basis for suspension or decertification, financial disposition of reverted funds, contracts executed during

interim administration, service delivery metrics, and progress toward certification of a successor program. Such actions shall be reported in the commission's annual report as required pursuant to § 18.2-273.4 of the Code of Virginia.

**24VAC35-80-110. ~~Alcohol Safety Action Program~~ Local alcohol safety action program case management processes and procedures.**

A. Local ASAP employees will find processes and procedures for case management, which are important to successful local ASAP certification, via the Case Management Policy and Procedure Guidelines established by the commission. Local ASAP employees shall attend any commission-provided training via a method approved by the commission.

B. Any local ASAP case manager and any other local ASAP employee who is designated by the director of any commission-certified local ASAP to provide probation and related services shall take an oath of office before entering the duties of the designated office.

**24VAC35-80-120. ~~Alcohol Safety Action Program~~ Local alcohol safety action program privacy and security procedures.**

A. Local ASAPs shall maintain, use, disclose, store, transport, retain, and handle destroy all offender records and all other confidential information as required by in compliance with federal, state, and local guidelines and laws, and any other applicable confidentiality, privacy, or records management requirements. In the event of a conflict between applicable authorities, the more protective standard shall apply.

B. ASAPs Access to offender records and confidentiality information shall be limited to the minimum necessary information required to accomplish the authorized purpose.

C. The requirements of this section apply to all physical records, electronic records, databases, case management systems, digital storage media, and any other format in which confidential information is maintained.

D. Each local ASAP shall implement and maintain physical and electronic security measures for all offender case files via the applicable Library of Virginia retention schedule and other confidential records.

At a minimum, each local ASAP shall:

1. Store all offender case files and confidential records in locked filing cabinets or a designated locked file room when not in use by authorized personnel;

2. Restrict physical access to offender case files and confidential records to authorized employees only. A current written list of authorized employees with access to physical files shall be maintained by the local ASAP director and updated immediately of any change in access authorization.

3. Maintain a written access log documenting each instance in which a physical file is removed from its primary secure storage location, including the date of the removal, name of the accessing employee, purpose of access, and date of return. Access logs shall be retained in accordance with the applicable Library of Virginia retention schedule.

4. Ensure that keys, combinations, or access credentials for locked file storage are limited to authorized personnel and are changed promptly upon the separation or reassignment of any employee with access; and

5. Prohibit the storage of case files in any location accessible to the general public, program participants, or unauthorized third parties.

E. When a physical or electronic case file must be removed from the local ASAP facility for an authorized purpose, including court appearances or commission-directed review, the removing ASAP employee shall (i) document the removal in the access log required by subsection D of this section prior to removing the file; (ii) maintain physical control of the file at all times while off-site; (iii) not leave the file unattended in a vehicle, public space, or unsecured location; and (iv) return the file to its primary storage location and document the return in the access log upon return.

F. No third-party, including courts, law-enforcement agencies, or other governmental entities, shall be permitted unsupervised access to physical or electronic offender case files. Any review of a file by an authorized third-party shall (i) occur on site at the local ASAP facility under the direct supervision of an authorized local employee, unless required by court order or applicable law; (ii) be documented in the access log required by subsection D of this section, including the identity of the third-party and the legal basis for access; and (iii) be limited strictly to information the third-party is legally authorized to access.

G. All offender case files and other local ASAP records shall be retained in accordance with the applicable Library of Virginia records retention and disposition schedule. No record shall be destroyed prior to the expiration of the applicable retention period except as authorized in writing by the commission. Records subject to an active investigation, litigation, audit, or Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia) request shall be retained until the matter is fully resolved regardless

whether the retention period has expired. Nothing in this section shall be construed to authorize the retention of records longer than permitted under applicable law.

H. Upon expiration of the applicable retention period, physical or electronic offender case files and other confidential records may be destroyed in a manner that prevents reconstruction of the information. Permissible methods include cross-cut shredding, pulping, or incineration by or through a licensed records retention vendor. Disposal of confidential records in ordinary trash or recycling containers or by any method that does not prevent reconstruction of the information is prohibited.

I. Any third-party records destruction vendor shall execute a written agreement requiring compliance with all applicable federal and state confidentiality laws. Each instance of records destruction shall be documented in accordance with the Library of Virginia. Each local ASAP shall designate, in writing, a records retention officer responsible for overseeing compliance with this section and applicable Library of Virginia retention schedules. The designation shall be filed with the Library of Virginia.

J. In the event that physical or electronic files are lost, stolen, accessed without authorization, or otherwise compromised, the local ASAP director shall:

1. Take immediate steps to secure remaining records and prevent further unauthorized access;
2. Notify the commission in writing immediately upon discovery of breach, including a description of the records involved, the estimated scope of the compromise, and the steps taken in response;
3. Notify affected participants and government agencies in accordance with applicable federal and state law;
4. Conduct and document a review of the circumstances of the breach; and
5. Implement and document corrective measures designed to prevent recurrence. Incident reports shall be maintained in the local ASAP's administrative records.

K. Employees with access to offender records shall sign a written confidentiality acknowledgment upon hire and annually thereafter.

**24VAC35-80-125. Conflicts of interest.**

A. Any local ASAP employee or policy board member who becomes aware of an actual or potential conflict of interest shall disclose such conflict immediately via a conflict of interest disclosure statement. Disclosure shall be made in writing by a local ASAP employee to the local ASAP director who shall, upon

being notified, notify the executive director and, for any program that has a designated fiscal agent, the fiscal agent. If the conflict of interest involves an ASAP director, or policy board member, the policy board chair shall notify the executive director and, for any program that has a designated fiscal agent, the fiscal agent. Effective January 1, 2028, all programs shall have a fiscal agent, and the reporting requirements of this subsection shall apply to the fiscal agent for all programs. The written disclosure shall include the nature of the relationship of interest, any entity involved, any financial or compensation agreement, and the manner in which the conflict of interest may affect official duties.

B. Unless expressly approved in writing by the executive director and, for any program that has a designated fiscal agent, the fiscal agent, no local ASAP employee or policy board member shall:

1. Hold any ownership interest, employee relationship, independent contractor relationship, consulting agreement, referral fee agreement, commission-based compensation, or other financial interests in any third-party provider;
2. Accept any gift, gratuity, payment, incentive, or discount not available to the general public or thing of monetary value from a third-party provider;
3. Direct, recommend, influence, steer, or otherwise preferentially refer participants to a specific third-party provider for personal benefit; or
4. Participate in any vote, decision, recommendation, evaluation, contract review, or disciplinary matter involving any entity with which the individual has a conflict of interest.

Effective January 1, 2028, all programs shall have a fiscal agent and financial reports shall be sent to both the commission and the fiscal agent for all programs.

C. Any individual with a disclosed conflict of interest shall immediately recuse themselves from any discussion, vote, supervision, recommendation, or decision involving the entity creating the conflict. Recusal shall be documented in writing and maintained in the local ASAP records.

D. No local ASAP shall lease, sub-lease, rent, or otherwise permit the use of local ASAP controlled office space or facilities by a third-party provider without prior written approval of the executive director and, if the program has a designated fiscal agent, the fiscal agent. Any request for approval shall be submitted in writing and shall include proposed lease or rental terms, compensation arrangements, duration of agreement, description of space to be used, and safeguards to prevent preferential treatment or appearance of endorsement. The executive director in coordination with the fiscal agent may deny.

condition, or revoke approval if the arrangement presents an actual or perceived conflict of interest or otherwise undermines program neutrality or integrity. Effective January 1, 2028, all programs shall have a fiscal agent, and approvals described in this subsection shall be given by the commission and the fiscal agent for all programs.

E. Failure to disclose a conflict of interest or engaging in an prohibited relationship under this section may result in denial, suspension, or revocation of a VASAP Certification Letter pursuant to 24VAC35-80-140, removal from a policy board, conditional certification of a local ASAP, or suspension of local ASAP certification pursuant to 24VAC35-80-100.

**~~24VAC35-80-130. Alcohol Safety Action Program~~ safety action program personnel policies.**

A. Each local ASAP employee will be provided the local ASAP Code of Conduct and a conflict of interest disclosure statement to be submitted whenever an actual or perceived conflict of interest exists or may exist.

B. Local ASAP employees, serving in any type of supervisory capacity, shall not supervise any employee, directly or indirectly, who is a spouse, partner, family member, or household member or a party deemed as a conflict of interest by the commission. "Family member" or "household member" includes any person who cohabitates with or is related by blood, marriage, or adoption.

C. Local ASAP directors shall administer in person evaluations for all employees on an annual basis unless otherwise approved by the commission or, if the program has a designated fiscal agent, the fiscal agent. Effective January 1, 2028, all programs shall have a fiscal agent, and the requirements of this subsection shall apply to all programs. Employee evaluations shall be:

1. Completed by the local ASAP director or ~~an~~ the local ASAP-designated supervisor on an official commission evaluation form;
2. Completed for each local ASAP employee ~~on no less than an annual basis;~~ and
3. Signed and dated by both the local ASAP director or a supervisor-designee and the local ASAP employee who is being evaluated. In situations where ~~an~~ a local ASAP employee refuses to sign the evaluation, the local ASAP director or a supervisor-designee shall write "refused to sign" under the employee signature line. The local ASAP director or a supervisor-designee shall initial and date the evaluation.

**~~24VAC35-80-140. Alcohol Safety Action Program~~ Local alcohol safety action program employee**

**certification, revocation, or suspension.**

A. All local ASAP employees are required to possess a VASAP Certification Letter, issued by the commission verifying certification as required by § 18.2-273.8 of the Code of Virginia, in order to perform any local ASAP services in ~~the Commonwealth of Virginia~~, including servicing local ASAP offenders with an local ASAP requirement that may reside out of state. Newly hired employees, however, may perform local ASAP services for training purposes up to 90 days prior to obtaining a VASAP Certification Letter. The executive director may grant a written extension of the 90-day period for good cause shown. In order to apply for a VASAP Certification Letter, the local ASAP shall submit a completed application to the commission for approval for any local ASAP employee not in possession of a VASAP Certification Letter, excluding an local ASAP employee who is newly hired and within the first 90 days of training. The completed application shall include submission to the commission of:

1. A complete local and national criminal history;
2. A complete driver's record; and
3. Successful completion of the VASAP Certification Exam.

Failure to submit a completed application will result in disqualification of the applicant from consideration for a VASAP Certification Letter by the commission to perform local ASAP services in ~~the Commonwealth of Virginia~~ or to local ASAP offenders who may reside out of state.

B. All applicants shall be required to complete a VASAP Certification Exam. Successful completion of the exam requires a score of 80% or higher. Applicants who fail to successfully complete the VASAP Certification Exam on the first attempt shall be allowed a second opportunity to successfully complete the exam. Applicants who fail to successfully complete the VASAP Certification Exam on the second attempt shall not be allowed to reapply to provide local ASAP services for ~~the Commonwealth of Virginia~~ or for local ASAP offenders residing out of state for six months from the date of the second failed exam. Local ASAPs shall be required to pay an administrative fee of \$250 to the commission for each second and subsequent VASAP Certification Exam taken by an employee as the result of a prior failed exam by the same local ASAP employee.

C. In addition to the requirements of subsections A and B of this section, local ASAP employees who serve in an local ASAP director capacity shall be required to successfully complete the following requirements to obtain and maintain a VASAP Certification Letter:

1. ~~A minimum of 40 hours of~~ The required commission-approved training via a format and location determined by the executive director; ~~and~~

2. Verification of meetings conducted with stakeholders of the assigned local ASAP, to include all ~~Circuit~~ circuit and ~~General-District-Court~~ general district court judges along with their any clerk of court, Commonwealth attorneys, sheriffs, and police chiefs, unless otherwise approved by the commission. ~~Newly hired ASAP directors will be granted a six-month grace period to fulfill this requirement;~~

3. In addition to the requirements of subdivisions 1 and 2 of this subsection, an individual serving in the capacity of a local ASAP director shall demonstrate competency and satisfactory performance, as determined by the commission, in the areas of management and supervision of local ASAP staff; fiscal and budgetary management; compliance with commission standards; regulations and policies; and integrity and accountability in program operations and cooperation with courts, law enforcement, and community partners as part of initial certification and continued certification;

4. Each local ASAP director shall be evaluated annually by the executive director or the executive director's designee per a commission-approved evaluation process, to assess continued competency and satisfactory performance in the areas set forth in subdivision 3 of this subsection. The annual evaluation shall include review of management practices; fiscal and budgetary oversight; compliance with commission standards and regulations; operational integrity; and cooperation with courts, law enforcement, and community partners. The commission shall establish the evaluation format, required documentation, performance metrics, and minimum standards necessary to maintain certification. Failure to satisfactorily complete the annual evaluation or demonstrate satisfactory performance in these areas may result in corrective action; conditional certification; or denial, suspension, or revocation of the local ASAP director's VASAP Certification Letter by the executive director pursuant to subsection D of this section; and

5. Each local ASAP director shall attend a minimum of 50% of quarterly commission meetings on an annual basis unless otherwise approved by the executive director.

D. The executive director may deny, revoke, suspend, or terminate a local ASAP employee's VASAP Certification Letter ~~for any ASAP employee for any of the~~ when any of the following reasons apply to the

local ASAP employee:

1. ~~Having~~ Has been convicted of a felony;
2. ~~Having~~ Has been convicted of a misdemeanor ~~potentially punishable by confinement;~~
3. ~~Committing~~ Committed an unethical, deceptive, or dishonest act that negatively impacts the integrity of the state VASAP system;
4. ~~Failing~~ Failed to demonstrate the ability to consistently comply with ordinances, statutes, administrative rules, or court orders at the local, state, or federal level;
5. ~~Failing~~ Failed to demonstrate sufficient knowledge or skill required to perform local ASAP services in the ~~Commonwealth of Virginia~~ or for local ASAP offenders residing out of state;
6. ~~Making~~ Made a material misstatement or omission on the application;
7. ~~Defrauding~~ Defrauded any client, service provider, or other person or entity in the conduct of the local ASAP's business;
8. ~~Unethical~~ Displayed unethical behavior. Proper employee conduct is outlined in the local ASAP Code of Conduct;
9. ~~Failing~~ Failed to attend any commission-mandated training without prior commission approval;
10. ~~Failing~~ Failed to timely enter local ASAP enrollments or completions or ignition interlock installs and completions into the ~~DMV~~ department system;
11. ~~Displaying~~ Displayed a pattern of substandard customer service;
12. ~~Mismanagement~~ Mismanaged of local ASAP finances;
13. ~~Failing~~ Failed to submit reports required by the commission to the commission within the timeframes provided by the commission; or
14. ~~Expending~~ Expended or ~~directing~~ directed another to expend budgetary funds not approved by the commission; or
15. Failed to meet any requirements of this section.

An A local ASAP employee whose VASAP Certification Letter has been denied, revoked, suspended, or terminated may request ~~a judicial~~ an administrative review by the agency in accordance with the ~~provisions of the~~ Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) by requesting an agency

hearing within 30 days of notification of such revocation or suspension. Such request shall be in writing and directed to the executive director. In the event that the decision to suspend the VASAP Certification Letter of an a local ASAP employee is upheld, the local ASAP employee shall not perform any local ASAP services in ~~the Commonwealth of Virginia~~ or for local ASAP offenders residing out of state for the entire suspension period, or in the case of a denial, revocation, or termination, on a permanent basis. This prohibition includes any period during which the denial, suspension, revocation, or termination is being contested. The local ASAP director, or the policy board in the situation where the action pertains to ~~an a~~ local ASAP director, shall return the VASAP Certification Letter to the commission within 15 days of the date that the certification was suspended, revoked, or terminated by the commission.

E. Local ASAP directors shall be responsible for any local ASAP employee, including ~~themselves the~~ directors, who provides any local ASAP services without a valid VASAP Certification Letter, excluding a new employee who is within the first 90 days of employment, and shall be subject to a fine of up to \$500 per occurrence, to be approved by the executive finance committee, payable to the Treasurer of Virginia. In this instance, the commission will notify the applicable jurisdictions of the violation. If the violation continues, the commission shall review the local ASAP's certification at the next commission meeting.

F. Once the completed application has been approved by the commission, and all other qualifications have been met by the applicant, a VASAP Certification Letter to perform local ASAP services in ~~the Commonwealth of Virginia~~ and to local ASAP offenders residing out of state shall be issued to the applicant in a method approved by the commission. In the event that an applicant is not approved for a VASAP Certification Letter to perform local ASAP services in ~~the Commonwealth of Virginia~~ or to local ASAP offenders residing out of state, the commission will notify the local ASAP employee in writing within 10 days of the determination. The VASAP Certification Letter is subject to review by the commission at its discretion during the course of the certification period.

G. Local ASAP employees are required to successfully complete 10 hours of commission-approved continuing education on an annual basis in order for their certification to perform local ASAP services in ~~the Commonwealth of Virginia~~ and to local ASAP offenders residing out of state to remain valid. Local ASAP employees who fail to successfully complete 10 hours of commission-approved continuing education on an annual basis shall have their certification suspended by the executive director on the annual expiration date of the certification unless otherwise approved by the executive director. The annual time period to complete the 10 hours of commission-approved continuing education for all local ASAP employees is calculated as

365 days from their original certification date and falls on the same date on an annual basis for all subsequent years. The executive director shall determine the parameters required for successful completion and awarding of commission-approved continuing education courses.

H. An A local ASAP employee who has had state certification denied, revoked, or terminated shall be ineligible to reapply for a VASAP Certification Letter unless otherwise approved by the commission.

I. Local ASAPs are required to notify the commission in writing of any employee who is no longer an employee of the local ASAP within 48 hours of the local ASAP employee's employment end date. Any local ASAP employee whose employment ends for any reason, whether voluntary or involuntary, shall have the employee's VASAP Certification Letter automatically expire on the date of separation. Any individual whose certification expires under this provision must complete the applicable certification requirements of this section at the time of reemployment with any local ASAP in order to be recertified.

J. In addition to the successful completion of the VASAP Certification Exam required for application, the executive director may ~~order~~ require that an a local ASAP employee review requirements and retake the VASAP Certification Exam to demonstrate that the employee possesses the knowledge required to adequately perform local ASAP services in the ~~Commonwealth of Virginia~~ and to local ASAP offenders residing out of state. The executive director may revoke a VASAP Certification Letter for failure to successfully pass the VASAP Certification Exam with a minimum score of 80%.

~~K. ASAP employees are permitted to perform ASAP duties without a VASAP Certification Letter for up to December 21, 2023, unless otherwise approved by the executive director.~~

**24VAC35-80-150. Virginia alcohol safety action program state-wide performance monitoring and data reporting.**

A. The commission shall establish procedures for the collection, reporting, and analysis of data necessary to conduct statewide performance monitoring of the Virginia Alcohol Safety Action Program system.

B. Each local ASAP shall collect and report data to the commission in a format and method established by the commission. Such data may include:

1. Program enrollment and completion information;
2. Financial and collection rate data;

3. Compliance with certification standards;

4. Operational performance indicators; and

5. Other information necessary for statewide oversight and evaluation.

C. The commission may require submission of periodic reports and may conduct audits or reviews to ensure data accuracy and integrity.

D. All data collected and reported pursuant to this section shall be used for purposes of statewide program oversight, performance evaluation, and compliance monitoring.

E. The commission and all local ASAPs shall protect the confidentiality of individual offender information in accordance with applicable federal and state laws and regulations. Personal identifiable information shall not be disclosed except as authorized by law.

F. The commission may establish additional policies and procedures governing data collection, reporting standards, and performance metrics consistent with this section.

**24VAC35-80-160. Approval and use of treatment service providers.**

A. This section establishes requirements governing the approval, listing, monitoring, and removal of treatment service providers from the commission treatment service provider directory. The provisions of this section are intended solely to ensure effective case management, compliance monitoring, and continuity of services for individuals referred by local ASAPs. Nothing in this section shall be construed to regulate the independent clinical practice of any treatment provider or the authority of any licensing or regulatory entity of Virginia. This section applies to all treatment providers seeking inclusion in or currently listed in the treatment provider directory. Community service boards shall not be subject to the requirements of this section.

B. As a condition of inclusion in the treatment provider directory, a treatment provider shall:

1. Maintain all required licenses, certifications, and credentials in good standing;

2. Comply with all applicable federal and state laws governing treatment records, including 42 CFR Part 2 and professional standards;

3. Utilize the commission-designated case management system for all local ASAP-referred offenders, unless otherwise authorized by the executive director;

4. Excluding community service boards, via the commission required case management system.

submit required documentation, including initial assessment reports, treatment plans, periodic progress reports as required by the executive director, and final discharge or completion reports;

5. Ensure all documentation is complete, accurate, and submitted in a timely manner established by the commission;

6. Maintain accurate contact and location information within the service provider directory;

7. Safeguard access credentials and not share user name or passwords;

8. Maintain a current and valid professional license issued by the Department of Health Professions or the Department of Behavioral Health and Development Services;

9. Ensure proof of licensure is maintained in the commission's designated system;

10. Complete all required commission training or informational sessions;

11. Respond to commission and local ASAP inquiries in a timely manner established by the commission;

12. Notify the commission of any changes to licensure, staffing, or service capacity that may affect eligibility; and

13. Maintain a valid written treatment provider memorandum of understanding as prescribed by the commission.

The commission may monitor provider performance solely for the purpose of determining continued eligibility for inclusion in the treatment provider directory. Monitoring may include review of timeliness and completeness of required documentation, proper and required use of the case management system, responsiveness to communications, and patterns of noncompliance affecting case management. Monitoring conducted pursuant to this section shall not include regulation or evaluation of clinical treatment decisions. Inclusion in the treatment provider directory does not constitute endorsement, employment, or a contractual relationship with the commission or any local ASAP.

C. If an approved treatment provider fails to comply with the requirements of this section, the commission may initiate corrective action to include verbal or written notice of deficiency, a written corrective action plan, probationary status with defined conditions, or suspension or removal of the treatment provider from the treatment provider directory. Written notice of deficiency shall identify the specific requirements not met and the timeframe for corrective action. A treatment provider may be

suspended or removed from the treatment provider directory for:

1. Repeated failure to submit required documentation in a timely manner established by the commission;
2. Failure to utilize the required case management system as directed by the commission;
3. Failure to maintain required licensure or credentials;
4. Excluding community service boards, failure to respond to repeated communications from the commission or local ASAPs;
5. Submission of incomplete, inaccurate, or misleading documentation;
6. Conduct that materially interferes with the commission or a local ASAPs ability to monitor compliance;
7. Exhibiting a pattern of substandard customer service;
8. Failure to maintain valid licensure or required documentation;
9. Failure to provide required services or reports;
10. Any illegal act;
11. Any act or conduct that negatively impacts the integrity of the statewide VASAP system; and
12. Failure to provide a physical office location that meets local, state, and federal requirements, standards, and laws.

Except where immediate action is necessary to protect program integrity or public safety, the treatment provider shall be given written notice and an opportunity to respond prior to removal. A treatment provider removed from the treatment provider directory may apply for reinstatement in a manner prescribed by the executive director. Reinstatement shall be contingent upon demonstration of compliance with all applicable requirements and correction of prior deficiencies based on an assessment by the executive director.

D. Inclusion in the treatment provider directory does not guarantee referrals. Referral decisions shall be based solely on the offender's independent selection of a treatment provider and shall not be influenced in any way by local ASAP staff.

E. Nothing in this section shall be construed to regulate the clinical practice of any treatment provider or the authority of the Department of Health Professions or any other regulatory body or create an

employment or contractual relationship between the commission, local ASAPs, or any provider.

F. Local ASAPs and treatment providers shall not engage in any contractual relationship of any manner to include renting of office space amongst the parties. This section does not apply to the commission's ability to contract with community service boards to enhance workflow efficiencies between the agencies.

G. Any approved treatment provider who is subject to suspension or removal from the treatment provider directory may request a fact-finding conference in accordance with § 2.2-4019 of the Code of Virginia. The request shall be submitted in writing to the executive director within 30 calendar days of the date of the written notice of suspension or removal. Upon receipt of a timely request, the executive director shall provide the provider with notice of the date, time, and format of the fact-finding conference. The conference may be conducted in person, by telephone, or by electronic means per the executive director's discretion. The purpose of the fact-finding conference shall be to receive and consider relevant information regarding the provider's compliance with the requirements for inclusion in the treatment provider directory. Following the fact-finding conference, the commission shall issue a written decision affirming, modifying, or rescinding the suspension or removal. The written decision shall include the basis for the determination and shall be provided to the treatment provider. A provider aggrieved by the final decision of the commission may seek judicial review in accordance with § 2.2-4000 of the Code of Virginia. The filing of a request for a fact-finding conference shall not stay the suspension or removal of the treatment provider from the treatment provider directory unless otherwise approved by the executive director.

# Commission on VASAP Certification Manual

## Definitions

**“Local Alcohol Safety Action Program”** or **“local ASAP”** means a program established pursuant to §18.2-273.4 that provides probation, education, and rehabilitation services for persons referred by a court, the Department, or any other source approved by the Commission.

**“Certification”** means the process whereby the Commission evaluates a local ASAP for its organization, management, fiscal standing, and overall operation. Local ASAPs must be certified by the Commission in order to receive referrals of persons convicted of DUI by the courts.

**“Commission”** means the agency established in the legislative branch of state government as the Commission on Virginia Alcohol Safety Action Program as found in §18.2-273.2 of the Code of Virginia.

**“Local ASAP Director”** means the person who is in charge of and accountable for the operation of a local ASAP.

**“Department”** means the Commonwealth of Virginia Department of Motor Vehicles.

**“DUI”** means operating or driving a motor vehicle or boat under the influence of alcohol or other drugs as found in §§18.2-266, 46.2-341.28, and 29.1-738 of the Code of Virginia.

**“Executive Director”** means the Executive Director of the Commission on VASAP. This person is appointed by the Commission and is responsible for carrying out the purposes of the Commission.

**“Local Policy Board”** means a group established by the local ASAP which gives direction to the local ASAP’s activities and provides input of local needs. This board may also be established in accordance with §18.2-273.5 of the Code of Virginia.

**“VASAP”** means the Virginia Alcohol Safety Action Program, a probation intervention system providing services to offenders referred to a local ASAP by the courts or as a requirement of an administrative Department requirement. VASAP consists of the Commission on VASAP, the Advisory Board to the Commission on VASAP, local ASAP Policy Boards and the local Alcohol Safety Action Programs as established in §§18.2-271.1 and 18.2-273.2 of the Code of Virginia.

## **Certification Authority**

All programs established or operating under § 18.2-271.1 of the Code of Virginia are required by § 18.2-273.2 to be certified by the Commission.

Certification of local Alcohol Safety Action Programs (local ASAPs) within the Commonwealth of Virginia is established to ensure administrative consistency within the VASAP system and the quality of services provided to DUI offenders, the courts and the community.

The Commonwealth of Virginia is served by 21 local ASAPs located throughout the Commonwealth. A certification team will perform a triennial inspection of each local ASAP.

## **Certification Methodology**

### **1. Team Composition:**

Each certification team will consist of members appointed by the Executive Director.

### **2. Training:**

The Executive Director or designee shall be responsible for providing training to each certification review team.

### **3. Confidentiality:**

Each certification team shall adhere to all federal, state, and local laws governing confidentiality.

### **4. Documentation Request:**

Prior to the certification team's review, the Executive Director will solicit from each local ASAP necessary documentation concerning the operation of the program. After compilation of the requested information, it shall be distributed to the certification team. The data shall be used to assist with the certification review of the local ASAP.

### **5. Offender File Review:**

The certification team will review a random selection of offender files to ensure compliance with case management and administrative requirements found in the *VASAP Operational Guidelines*, the *VASAP Ignition Interlock and Remote Alcohol Monitoring Process and Procedure Manual*, and the *VASAP Certification Manual*.

### **6. Local ASAP Staff Interviews:**

The certification team may interview a randomly selected number of local ASAP staff.

## **7. Office Inspection:**

At the discretion of the Executive Director, on-site visits to the local ASAPs may be scheduled to collect additional information, make observations and examine office spaces.

## **8. Summation Conference:**

Upon completion of the certification review, the certification team may hold a summation conference with the local ASAP Director to provide information regarding any tentatively identified areas of deficiency.

## **9. Report Submission:**

A written report of the certification team's findings shall be submitted to the Executive Director, noting any findings of deficiency. The chair of the reviewing team shall be responsible for submission of the report.

## **10. Final Certification Report:**

A copy of the final certification report shall be provided to the local ASAP Director and local Policy Board members. If deficiencies are identified, the local ASAP shall provide a corrective action plan within 30 days of notification from the Executive Director.

## **11. Recommendation of Certification:**

The Executive Director shall provide the Commission with a report which contains the names of the local ASAPs that are recommended for certification. The commission shall consider the recommendations of the Executive Director, and if necessary, review the findings, documents, documentation of compliance, as well as any other relevant material received in order to make a certification decision.

## **12. Certification Decision:**

The Commission shall make a certification decision to either certify, conditionally certify, or fail to certify a local ASAP. The Commission may also revoke a local ASAP's certification. If the Commission fails to certify or revokes a local ASAP's certification, the Commission may establish a new local ASAP.

## **13. Certification of Approval:**

A certificate of approval shall be delivered or mailed to the local ASAP and shall be kept in custody and control of such local ASAP, posted in such a manner as to be viewable by the general public.

## **14. Certification Report Dissemination:**

The certification review and findings are the property of the Commission. The Commission shall be the sole source responsible for dissemination of any information regarding a local ASAP's certification review.

## **Standards**

Each local ASAP shall comply with the below standards as indicated. Each standard shall be reviewed at the time of certification for compliance and at such time as the Commission deems necessary in order to ensure continued compliance.

### **Statement of Purpose and Core Values**

1. Each local ASAP shall have written goals and objectives which reflect the Commission's overall mission.
2. Each local ASAP shall adhere to the VASAP core values.

### **Policy Board**

1. Each local ASAP shall have an independent legally-constituted local Policy Board which gives direction and guidance to the local ASAP.
2. The local Policy Board shall have written bylaws consistent with Commission policy and procedures.
3. The local Policy Board shall meet at quarterly and provide the Executive Director with meeting minutes.

### **Personnel**

1. Each local ASAP shall have an identifiable Director.
2. Each local ASAP shall have a program organizational chart which clearly delineates administrative and staff responsibility for program operations, and reflects positions identified through job descriptions.
3. Each local ASAP shall have written job descriptions which include at a minimum, explicit job qualifications for all staff positions. The certification team will sample and review descriptions for all positions on the organizational chart.

### **Policy and Procedures**

1. Each local ASAP shall have a written personnel policies and procedures manual which shall comply with all applicable federal, state or local mandates. The manual, at a minimum, shall include the following areas:
  - a. Benefits: Each local ASAP shall have clear descriptions of personnel benefits.
  - b. Confidentiality: Each local ASAP shall have policies and procedures regarding disclosure of offender information that comply with all state and federal regulations.

Included in these procedures shall be measures to ensure security, storage, access and destruction of all offender records.

c. Conflict of interest: Each local ASAP shall have policy and procedures to avoid any activity deemed to be in conflict with the interests of the program.

d. Equal opportunity: Each local ASAP shall have personnel policy and procedures including, but not limited to, recruitment and hiring, compensation, benefits, termination and all other terms and conditions of employment that provide equal opportunities and do not discriminate on the basis of race, color, religion, sex, age, national origin, disability, pregnancy, genetic information, veteran status, sexual orientation or any classification protected by applicable law (except where there is a bona fide occupational requirement).

e. Grievance procedures: Each local ASAP should have policy and procedures to provide for resolution of employee problems and complaints wherein employees can freely discuss their concerns and ensure that employees will have an effective procedure by which various grievances can be fairly and objectively reviewed.

f. Office hours: Each local ASAP shall have specific, stated hours of program operation being open to the public a minimum of eight hours per day, Monday through Friday.

g. Salaries: Each local ASAP shall have policy and procedures to assign a salary grade for each job position.

h. Performance appraisal: Each local ASAP shall have policy and procedures to provide an effective means for appraising the work performance of employees.

i. Personnel records: Each local ASAP shall have policy and procedures to maintain a complete and accurate personnel record for each employee. Included in these procedures shall be measures to ensure security, storage, access and destruction of all personnel records.

j. Probationary period: Each local ASAP shall have policy and procedures to require satisfactory completion of a probationary period as a prerequisite to continued employment, unless otherwise determined by local or state directives.

k. Purchasing: Each local ASAP shall have a written procurement plan.

l. Reduction in force (staff): Each local ASAP shall have a written reduction in force (staff) policies and procedures. An annual reduction in force plan shall include clear and distinct criteria and processes for personnel and positions affected, as well as, rationale for each proposed staff reduction and budgetary impact.

m. Standard of conduct: Each local ASAP shall have written standards of conduct designed to protect the well-being and rights for all employees, to provide a safe efficient operation and to maintain compliance with public law.

n. Termination of employment: Each local ASAP shall have policies and procedures for termination of employees.

o. Training: Each local ASAP shall have policy and procedure to ensure that all staff participate in all Commission training as well as to encourage and assist in staff development through academic study or through such other means to contribute to further service to the local ASAP program.

p. Travel: Each local ASAP shall have policy and procedures for work related travel. Where local regulations do not exist, travel must conform to the Commonwealth of Virginia travel regulations.

2: The certification review team will require documentation, evidence, or statements verifying action or efforts to fulfill each policy or procedure.

### **Staffing**

Each local ASAP shall employ sufficient staff to ensure that required services are provided.

### **Fiscal Policies**

Each local ASAP shall have written fiscal policies and procedures conforming to generally-accepted accounting principles. Such policies should include, at a minimum, budgeting, purchasing, auditing, property management, receipt of revenue, accounts payable, accounts receivable and methods of accounting.

## **Certification Waivers and Contestments**

1. A justified exemption may be granted from a specific VASAP certification requirement or any part thereof upon approval of the Executive Director.

2. In the event of certification disputes with the certification review team, or the denial of a request for waiver of certification requirements by the Executive Director, the local ASAP Director or local Policy Board chair may request a hearing before the Commission. The request for the hearing must be in writing and submitted to the Commission 30 days prior to the next regularly scheduled meeting of the Commission. Upon receipt of a written request, the Commission or its designee shall schedule a hearing. Failure to file such a request or to appear as scheduled shall be deemed a settlement of the certification dispute or acceptance of the Executive Director's waiver decision.

**Project 8610 - None**

**Commission On The Virginia Alcohol Safety Action Program**

**Amendments to Virginia's Remote Alcohol Monitoring Regulations**

**24VAC35-70-10. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Alcohol" means ethyl alcohol, also called ethanol (C<sub>2</sub>H<sub>5</sub>OH).

~~"ASAP" means a local alcohol safety action program.~~

"Blood alcohol concentration" or "BAC" means the amount of alcohol in an offender's blood or breath, as determined by chemical analysis, that is measured by the number of grams of alcohol per 100 milliliters of blood or 210 liters of breath.

"Bodily fluid" means any bodily fluid capable of being used to estimate blood alcohol concentration, provided the relationship between such bodily fluid and BAC has been established according to scientifically acceptable standards. Such fluids include blood, exhaled deep lung breath, perspiration (transdermal), and saliva.

"Breath test" means an analysis of the breath alcohol concentration of a deep lung breath sample, where "deep lung breath sample" or "alveolar breath sample" means a minimum 1.0-liter air sample that is the last portion of a prolonged, uninterrupted exhalation and that gives a quantitative measurement of alcohol concentration from which breath sample concentrations can be determined. "Alveolar" refers to the alveoli that are the smallest air passages in the lungs surrounded by capillary blood vessels and through which an interchange of gases occurs during respiration.

"Calibration" means a device system check indicating the absence of issues that affect the remote alcohol monitoring device's ability to provide an accurate alcohol concentration reading.

"Commission" means the Commission on Virginia Alcohol Safety Action Program or its designee.

"Device" means a remote alcohol monitoring device.

"Device certification" means the testing and approval process required by the ~~Commission on Virginia Alcohol Safety Action Program~~ commission for all remote alcohol monitoring devices.

"Executive director" means the executive director of the commission.

"Executive Finance Committee" means the advisory subcommittee of the commission, composed of the Executive Director of the Commission on Virginia Alcohol Safety Action Program, two executive director and other members that the commission members, and such other persons as the commission designates may designate, which is authorized to take action on behalf of the commission for a period not to exceed 90 days in matters of program certification, suspension, or related fiscal oversight.

"Local alcohol safety action program" or "local ASAP" means a program established pursuant to § 18.2-273.4 of the Code of Virginia that provides probation, education, and rehabilitation services for persons referred by a court, the Department of Motor Vehicles, or any other source approved by the commission.

"Manufacturer" means the entity that is responsible for the design, production, and distribution of remote alcohol monitoring devices to service providers.

"Offender" means the individual required by the court to use a remote alcohol monitoring device.

"Orientation" means to increase offender familiarity and understanding of remote alcohol monitoring device operation and program expectations through training and ~~set-up~~ set-up of the remote alcohol monitoring device for use by the offender.

"Remote alcohol monitoring device" means an unsupervised mobile testing device with the ability to confirm the location and presence of alcohol in a person and that is capable of scheduled, random, and on-demand tests that provide immediate or as-requested results. A testing device may be worn or used by persons ordered by the court to provide measurements of the presence of alcohol in their blood via breath or bodily fluid.

"Retest" means an additional opportunity to provide a deep lung breath or transdermal sample.

"Routine maintenance" means inspection, calibration, and other simple, small-scale activities associated with regular and general upkeep of the remote alcohol monitoring device against normal wear and tear but does not include internal repair.

~~"Service center" means the physical location where remote alcohol monitoring services are performed.~~

"Service provider" means an authorized entity that provides orientation of approved remote alcohol monitoring devices for manufacturers. Among other activities, service providers may calibrate and perform routine maintenance of devices as well as provide required reports and testify in court. In some cases, the

service provider may also be a manufacturer of a remote alcohol monitoring device.

~~"Set point" means the level at which the breath or transdermal alcohol concentration initiates a sequence of events to determine if the BAC or TAC sample is a confirmed alcohol event.~~

"State director" means a manufacturer employee who provides oversight of the manufacturer's remote alcohol monitoring device operations in ~~the Commonwealth of Virginia.~~

"Tampering" means an unlawful act or attempt to disable or circumvent the legal operation of the remote alcohol monitoring device.

"Technician" means a service provider employee who provides remote alcohol monitoring services in ~~the Commonwealth of Virginia~~ on behalf of a manufacturer.

~~"Testing window" means a time period programmed into the remote alcohol monitoring device in which an offender can provide an on demand, random, or scheduled breath or transdermal test.~~

"Transdermal" means transfer through the skin or the quantification of alcohol from a vapor after it passes through the skin.

"Transdermal alcohol content" or "TAC" means the detection of alcohol in human subjects using an external, noninvasive detection device attached and secured to the skin with tamper resistance approved by the commission.

"Transdermal test" means an analysis of the transdermal concentration of a bodily fluid sample.

"Violation" means an event that breaches the guidelines for use of the remote alcohol monitoring device, such as a breath or transdermal test indicating alcohol consumption; a refusal to provide a deep lung breath or transdermal sample; altering, concealing, hiding, or attempting to hide one's identity from the remote alcohol monitoring device's camera while providing a breath sample; or tampering ~~that breaches the guidelines for use of the remote alcohol monitoring device.~~

"Virginia Remote Alcohol Monitoring Certification Letter" means a letter issued by the commission to a service provider technician or state director authorizing the service provider technician or state director to perform remote alcohol monitoring services in ~~the Commonwealth of Virginia.~~

**24VAC35-70-30. Approval of manufacturers.**

A. The commission shall issue a request in compliance with ~~the Commonwealth of Virginia~~ Virginia's procurement procedures to contract with remote alcohol monitoring manufacturers for the services and

commodities required for the implementation and maintenance of ~~the Commonwealth's~~ Virginia's remote alcohol monitoring program. Contracts will be for a length of time established by the commission. Absent exigent circumstances necessitating additional providers or services, the commission shall not enter into additional contracts with remote alcohol monitoring manufacturers or service providers except during a procurement period where the commission is reviewing service provider contracts for approval.

B. A manufacturer seeking to contract with the commission shall:

1. Submit evidence demonstrating successful experience in the development and maintenance of a remote alcohol monitoring service program in Virginia, other states, or other countries;
2. Supply and train staff, technicians, and state directors and provide remote alcohol monitoring device orientation to ensure good customer service and compliance with all contract requirements. Personnel seeking to perform remote alcohol monitoring services or administrative duties in ~~the Commonwealth~~ of Virginia shall not necessarily be barred from employment due to a criminal record; however, a criminal record may be considered in conjunction with other information to determine the overall suitability of applicants for employment;
3. Provide, upon request of the commission or the court, via a properly served subpoena, expert or other required testimony in any civil, criminal, or administrative proceedings as to the method of manufacturing the device, remote alcohol monitoring functionality, and the testing protocol by which the device is calibrated and serviced. The manufacturer may assign a service provider designee to perform these duties;
4. Identify all key personnel who will be providing remote alcohol monitoring services for ~~the Commonwealth~~ of Virginia and furnish the commission with credentials on these personnel;
5. Notify the commission at least five business days in advance of a reduction in staffing levels of key personnel in ~~the Commonwealth~~ of Virginia;
6. Ensure that service provider technicians and state directors, or their designee, are trained and available to testify in court if required by a court or ~~Commonwealth's Attorney~~ attorney for the Commonwealth, or upon a 10-business-day notice by the local ASAP in that court's jurisdiction, regardless of whether a subpoena is issued;
7. Submit a description of the manufacturer's plan, to be approved by the commission, for distribution of the device to all locations of ~~the Commonwealth~~ of Virginia where remote alcohol

monitoring services will be performed. Services shall be made available within a 50-mile radius of every residence in ~~the Commonwealth of~~ Virginia unless otherwise authorized by the commission. Manufacturers are permitted to subcontract remote alcohol monitoring services to third-party service providers that meet the requirements of this chapter for delivery of their remote alcohol monitoring services in ~~the Commonwealth of~~ Virginia. ~~Alcohol Safety Action Programs~~ Local ASAPs may qualify as third-party service providers for a manufacturer for remote alcohol monitoring services in ~~the Commonwealth of~~ Virginia if approved by the commission. ~~Alcohol Safety Action Programs~~ Local ASAPs that are approved by the commission to contract with remote alcohol monitoring manufacturers to provide remote alcohol monitoring services shall employ a minimum of one state-certified technician for every 50 remote alcohol monitoring offenders monitored by their program and shall meet the same certification requirements as all other service providers;

8. Submit sufficient documentation to enable the verification of adequate insurance to cover liability related to remote alcohol monitoring operations, services, and equipment, including coverage in Virginia, with a minimum policy limit of \$1 million per occurrence and \$3 million general aggregate total. This liability insurance shall be considered primary above all other available insurance and shall so stipulate in the "other insurance" or applicable section of the insurance contract. The manufacturer shall provide a signed statement holding harmless ~~the Commonwealth of~~ Virginia and the commission and its members, employees, and agents from all claims, demands, and actions as a result of damage or injury to persons or property that may arise directly or indirectly out of an act or omission by the manufacturer or the manufacturer's service provider relating to the orientation, service, repair, or use of a remote alcohol monitoring device. Coverage shall extend to any action taken or not taken by local ASAPs (unless the local ASAP is a service provider for a remote alcohol monitoring device manufacturer) or the commission due to verified errors in reporting of remote alcohol monitoring device activity by the manufacturer or the manufacturer's service provider;

9. Submit documentation that the manufacturer will provide a state remote alcohol monitoring director who will serve as a central point of contact for the commission regarding all aspects of the manufacturer's remote alcohol monitoring operations in ~~the Commonwealth~~ Virginia. Among other duties, the manufacturer's state remote alcohol monitoring director will be expected to (i) respond promptly to problems in the field; (ii) upon request of the commission, provide testimony themselves or through their designee before applicable courts, the General Assembly of Virginia, or the

commission; (iii) assist and provide training to the commission; and (iv) be responsible for quality control of reports and statistics, updates to all required documentation, and field services reporting and repairs. In the event of a state director vacancy, the manufacturer shall submit to the commission the name of an interim state director within 10 days of the vacancy and the name of a permanent state director within 90 days of the vacancy;

10. Not discriminate against an employee or applicant for employment due to race, religion, color, sex, national origin, age, disability, or other basis prohibited by state or federal law relating to discrimination in employment, ~~except where there is a bona fide occupational qualification reasonably necessary for the normal operation of the manufacturer or the manufacturer's service provider.~~ The manufacturer agrees to post at all service provider locations in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. Furthermore, the manufacturer shall require that its service providers, in all solicitations or advertisements for employees placed by or on behalf of the service provider, state that the contractor is an equal opportunity employer. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this subdivision;

~~11. Not knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986 (P.L. 99-603; 100 Stat. 3359) during the performance of the contract for goods and services;~~

~~12.~~ 11. Notify the commission in writing within 15 days of a disciplinary action taken by a state or other political entity against the manufacturer in areas where the manufacturer conducts or has conducted remote alcohol monitoring business. This notification shall include the reason for the disciplinary action and other information as the commission may reasonably request. This requirement applies regardless of the existence of an appeal;

~~13.~~ 12. Notify the commission in writing of all final adjudications against the manufacturer related to the remote alcohol monitoring device or delivery of remote alcohol monitoring services;

~~14.~~ 13. Provide remote alcohol monitoring generated reports and report all required alcohol-related violations to the ~~Alcohol Safety Action Program~~ local ASAP of jurisdiction; and

~~15.~~ 14. Provide documentation annually of the manufacturer's certification to the current

International Organization for Standardization (ISO) 9001 Quality Management System (QMS) for aspects related to design, maintenance, and distribution of a remote alcohol monitoring device. Along with this certification, a copy of the manufacturer's Quality Assurance Plan (QAP) for checking the accuracy of the calibration of the remote alcohol monitoring device is required.

C. Provided that all manufacturer, facility certification, and device certification requirements are met, the commission may contract with those manufacturers and may approve multiple makes and models of remote alcohol monitoring devices for use in ~~the Commonwealth of Virginia~~.

**24VAC35-70-40. Remote alcohol monitoring service facility certification.**

Each remote alcohol monitoring service facility shall be inspected and certified by the commission prior to opening and at least annually ~~thereafter~~ after opening. Remote alcohol monitoring service facilities shall:

1. Comply with all local business license and zoning requirements and with all federal, state, and local health, fire, and building code requirements. Prior to the jurisdictional compliance deadline, a copy of a valid business license or business license payment receipt, and tax document shall be posted in a conspicuous place at the service facility immediately upon receipt when applicable;
2. Comply with all local, state, and federal laws pertaining to the provisions of physical access to persons with disabilities;
3. Maintain offender records in a manner that complies with federal confidentiality guidelines. All offender files, payment receipts, and other identifying information shall be located in locked filing cabinets if unattended by a technician. Electronic storage of offender files shall be encrypted and secured to prevent ~~third-party~~ third-party access;
4. Require and enforce maintenance of a drug-free workplace and have posted, in a conspicuous place available to employees and applicants for employment, a statement notifying employees that the manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the service provider's workplace. The notice shall specify the actions that may be taken against employees for violations of the policy;
5. Notify offenders of the address and closure date of any remote alcohol monitoring service facility and provide the address of an alternate remote alcohol monitoring service facility within 15 days of the closure date, if applicable;
6. Ensure that employees maintain a professional appearance and are attired in such a manner as

to be readily identifiable as service provider employees;

7. Ensure that the locations where remote alcohol monitoring services are performed are tidy and pose no hazards to public safety; and

8. Provide the commission at a minimum of 20 days', with a 20-day notice prior to the scheduled opening date of a new location. This requirement allows the commission reasonable time to schedule an inspection of the new facility prior to opening services to ASAP offenders.

**24VAC35-70-50. Remote alcohol monitoring device specifications and certification.**

A. All remote alcohol monitoring devices used in ~~the Commonwealth~~ of Virginia shall be certified by the commission. The commission shall maintain a list of approved remote alcohol monitoring devices.

B. A manufacturer seeking to have a remote alcohol monitoring device certified by the commission shall submit:

1. The name and address of the remote alcohol monitoring device manufacturer;
2. The name and model number of the remote alcohol monitoring device; and
3. A detailed description of the device, including drawings, wiring protocols, if applicable, and instructions ~~used in~~ for device orientation.

C. The manufacturer or the manufacturer's service provider shall provide literature promoting ~~its~~ the device to the commission and for distribution to the local ASAPs.

D. The manufacturer shall provide a certification report that the remote alcohol monitoring device conforms to the minimum specifications set forth by the commission. Included with the certification report should be the name and location of the testing facility, the address and ~~phone~~ telephone number of the testing facility, and the names and qualifications of the individuals performing the tests. This section applies only to the portion of the device that records breath or bodily fluid samples for analysis. At a minimum, the following specifications shall be met:

1. The remote alcohol monitoring device shall work accurately and reliably in an unsupervised environment at minimal inconvenience to others.
2. The remote alcohol monitoring device shall be able to analyze a specimen of alveolar breath or bodily fluid for alcohol concentration, correlate accurately with established measures of blood or transdermal alcohol concentration, and be calibrated according to the manufacturer's specifications.

3. The remote alcohol monitoring device shall use an electrochemical fuel cell or other technology approved by the commission that reacts to and measures ethanol.
4. A remote alcohol monitoring device that is designed to take a breath test shall indicate when an acceptable breath sample has been collected, indicating this by audible or visual means. The remote alcohol monitoring device shall not be set to a breath volume requirement of less than ~~1.0 L~~ 1.5 L unless otherwise approved by the executive director or their designee.
5. The remote alcohol monitoring device shall detect and record a BAC or TAC for all completed breath or bodily fluid samples.
6. The results of the test shall be noted through the use of green, yellow, and red signals or similar pass or fail indicators. No digital blood or transdermal alcohol concentration shall be indicated to the offender.
7. The remote alcohol monitoring device shall automatically purge alcohol before allowing subsequent analyses.
8. The remote alcohol monitoring device shall be capable of random, scheduled, continuous, or on-demand tests that provide immediate, scheduled, or on-demand results.
9. The internal memory of the remote alcohol monitoring device shall be capable of recording and storing a minimum of 500 remote alcohol monitoring events.
10. The remote alcohol monitoring device shall be designed and set up in a manner as to minimize opportunities for tampering, alteration, bypass, or circumvention.
11. The remote alcohol monitoring device shall be capable of recording and providing evidence of actual tampering, alteration, bypass, or circumvention.
12. The remote alcohol monitoring device shall operate accurately and reliably at temperatures between ~~40°~~ 10°C and 40°C.
13. The remote alcohol monitoring device shall operate up to altitudes of 2.5 km above sea level.
14. The readings of the remote alcohol monitoring device shall not be affected by humidity, dust, electromagnetic interference, smoke, or food substance when used in accordance with the manufacturer's instructions.
15. The remote alcohol monitoring device shall be set up with a means to confirm the location and

presence of alcohol in an offender. If a remote alcohol monitoring device is equipped with global positioning system (GPS) capabilities, GPS coordinates ~~are~~ may not ~~to~~ be shared by the manufacturer or service provider, unless required by court order, subpoena, or law.

16. The remote alcohol monitoring device shall have a set point equivalent to 0.02g/210 liters of breath unless otherwise approved by the commission. For the purposes of this subsection, "set point" means the level at which the breath or transdermal alcohol concentration initiates a sequence of events to determine if the BAC or TAC sample is a confirmed alcohol event.

17. The testing window shall be 30 minutes unless otherwise approved by the commission. For the purposes of this subsection, "testing window" means a time period programmed into the remote alcohol monitoring device within which an offender can provide an on-demand, random, or scheduled breath or transdermal test.

18. Remote alcohol monitoring devices that are not continuously attached to the offender to confirm identity shall be equipped with an internal camera to provide evidence that the offender is the individual providing breath samples into the device as required by law or court order.

19. The remote alcohol monitoring device shall prompt for a subsequent breath or transdermal test 30 minutes after any reading above the set point. If the subsequent test records any BAC level, or is refused, a confirmed alcohol violation will be reported to the local ASAP by the manufacturer or the manufacturer's service provider in a manner specified by the commission, unless the manufacturer has its own alcohol violation confirmation process. In situations where a manufacturer has its own alcohol violation confirmation process, the manufacturer may use its process as an alternative standard to report an alcohol violation if approved by the commission.

20. Prompted remote alcohol monitoring device tests that are not provided within the testing window shall be reported as a confirmed alcohol violation to the local ASAP by the manufacturer or the manufacturer's service provider in a manner specified by the commission.

21. In the event the remote alcohol monitoring device battery level falls below 20%, the device shall prompt the offender to connect to a power supply. A low battery condition under 20% of capacity and connecting or disconnecting the device from a constant power supply shall be uniquely recorded in the device's memory.

22. Remote alcohol monitoring devices shall have calibration stability of at least six months.

23. Remote alcohol monitoring devices shall be produced by a manufacturer that maintains certification to the current International Organization for Standardization (ISO) 9001 Quality Management Systems for aspects related to the design, maintenance, and distribution of the device. Documentation demonstrating compliance with this requirement shall be submitted to the commission by the manufacturer on an annual basis.

E. All remote alcohol monitoring devices that have been approved by the commission shall have affixed a warning label with the following language: "Any person tampering with or attempting to circumvent this remote alcohol monitoring system shall be guilty of a Class 1 misdemeanor and, upon conviction, be subject to a fine or incarceration or both." Remote alcohol monitoring devices may be equipped with a GPS. If a remote alcohol monitoring device is equipped with a GPS, the following additional language is required in bold on the warning label: "Please note that this remote alcohol monitoring device is equipped with a functioning GPS." The cost and supply of the warning labels to be affixed to the remote alcohol monitoring devices shall be borne by the manufacturer or service provider. The manufacturer or service provider shall submit to the commission a prototype of the warning label for approval.

F. Additional technical specifications for the operation and installation of the remote alcohol monitoring device may be described in the contract between the commission and the manufacturer.

G. The manufacturer shall notify the commission in writing if the approval or certification of a device that is approved, or has been submitted for approval for use in Virginia, is or ever has been denied, withdrawn, suspended, or revoked in another state, whether the action occurred before or after approval in Virginia. This notification shall be made in a timely manner, not to exceed 15 days after the manufacturer has received notice of the denial, withdrawal, suspension, or revocation of approval or certification of the device, whether or not the action will or has been appealed.

**24VAC35-70-60. Fees.**

A. All potential manufacturers desiring to conduct business in ~~the Commonwealth of~~ Virginia's remote alcohol monitoring program shall submit a \$250 nonrefundable application fee to the commission.

B. The following additional fees shall be paid by the manufacturer to the commission:

1. A \$250 annual contract review fee;
2. A \$50 annual review fee for each remote alcohol monitoring service location;
3. A \$30 monthly remote alcohol monitoring administrative fee for each offender. The fee shall be

accompanied by an associated offender list, categorized by local ASAP, supporting the payment amounts. The local ASAP offender list and payment shall be submitted no later than the 10th day of the month following the month when the remote alcohol monitoring services ~~were~~ are provided;

4. A \$250 retest fee each ~~and every~~ time a service provider employee is required to take a second or subsequent Virginia Remote Alcohol Monitoring Certification Exam due to an unsuccessful attempt on the first exam; and

5. A \$250 remote alcohol monitoring device certification fee for any new device proposed for use in the Commonwealth Virginia.

C. Service providers may charge offenders for remote alcohol monitoring services at rates up to, but not to exceed, the following:

1. \$80 for a standard remote alcohol monitoring device orientation;

2. \$330 plus applicable taxes per month for remote alcohol monitoring device calibrations and monitoring, inclusive of the monthly administrative fees to be paid to the commission;

3. \$10 per month for optional insurance to cover theft or accidental damage to the remote alcohol monitoring device and its components;

4. An amount of 10% over the actual replacement cost of the remote alcohol monitoring device and its components when theft or accidental damage occurs and the offender has not purchased the optional insurance;

5. \$50 plus mileage calculated at ~~the Commonwealth of Virginia~~ Virginia's mileage rate in effect at the time, not to exceed 100 miles, for service calls;

6. \$35 for missed appointments; and

7. An amount permitted by the Code of Virginia at the time for returned checks.

D. All manufacturers or ~~their~~ manufacturer's service providers shall create and maintain an indigency fund for offenders who are eligible for a reduction in fees based upon a declaration of indigency by the court and approval by the commission. No manufacturer or manufacturer's service provider shall deny service to any offender for whom there has been a declaration of indigency by the court and approval by the commission.

E. No manufacturer or service provider shall charge a deposit to an offender or require an offender to

have a cosignor in order to provide a remote alcohol monitoring device or services to an offender.

**24VAC35-70-70. Suspension or revocation of remote alcohol monitoring devices or service facility certification.**

A. The commission may indefinitely suspend or revoke certification of a remote alcohol monitoring device or service facility. The Executive Finance Committee, ~~for a period not to exceed 30 days,~~ may suspend, for a period not to exceed 90 days, or revoke certification of a remote alcohol monitoring device or service facility for the following reasons:

1. When there is a voluntary request by a manufacturer to cancel certification of a device;
2. When a device is discontinued by the manufacturer;
3. When the manufacturer's liability insurance is terminated or canceled; or, in cases where the service provider is responsible for the liability insurance, the insurance is canceled and not remedied by the manufacturer within three business days;
4. When the manufacturer or ~~a manufacturer's~~ service provider attempts to conceal its true ownership;
5. When the manufacturer provides materially false or inaccurate information ~~is provided~~ relating to a device's performance standards ~~by the manufacturer;~~
6. When there are defects in design, materials, or workmanship causing repeated failures of a device;
7. When a manufacturer or ~~a manufacturer's~~ service provider knowingly permits nonqualified employees to perform work;
8. When a manufacturer or ~~a manufacturer's~~ service provider assists users with circumventing or tampering with a device;
9. When a manufacturer or service provider fails to fully correct an identified remote alcohol monitoring facility noncompliance issue within the timeframe required by the Code of Virginia, the provisions of this chapter, or a remote alcohol monitoring manufacturer contract;
10. When there is a pattern of identified remote alcohol monitoring facility noncompliance issues;
11. When a manufacturer or ~~a manufacturer's~~ service provider impedes, interrupts, disrupts, or negatively impacts an investigation conducted by the commission involving customer service issues

or ~~other another~~ complaint brought forward by a third party;

12. When there is an identified public safety or offender confidentiality issue at a remote alcohol monitoring service facility; ~~or~~

13. When a manufacturer fails to maintain annual certification with the International Organization for Standardization (ISO) 9001 Quality Management System (QMS) for aspects related to design, maintenance, and distribution of a remote alcohol monitoring device; ~~or~~

14. When the manufacturer or service provider fails to comply with any requirements of 24VAC35-70-120.

B. If a suspension or revocation of a remote alcohol monitoring device or service facility certification occurs, the manufacturer may request ~~judicial~~ administrative review by the agency in accordance with the ~~provisions of the~~ Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) by requesting an agency hearing within 30 days of notification of such revocation or suspension. Such request shall be in writing and directed to the executive director. Should a revocation of certification be upheld, the manufacturer whose device has been revoked (i) shall be responsible for removal of all devices installed and serviced by the manufacturer's service providers that are subject to the revocation and (ii) will bear the costs associated with the required removal and installation of new approved devices. In addition, the manufacturer whose device or facility is subject to the revocation shall continue to provide services for these local ASAP offenders for a time to be determined by the commission, but no longer than 90 days.

C. When the certification of a remote alcohol monitoring device or remote alcohol monitoring service facility is suspended or revoked, manufacturers shall continue to make sure services are provided for local ASAP offenders; however, no new remote alcohol monitoring installations shall be permitted during the period of suspension.

D. If a manufacturer or a manufacturer's service provider terminates the contract or goes out of business, the manufacturer shall be responsible for removal of all of its devices operational in ~~the~~ Commonwealth Virginia and shall bear the costs associated with required offender transfers to new approved devices. In addition, if a manufacturer or a manufacturer's service provider terminates the contract or goes out of business, the manufacturer or manufacturer's service provider shall continue to provide services for 90 days after notification to the commission that services will be terminated in Virginia.

**24VAC35-70-80. Remote alcohol monitoring device orientation.**

A. No offender who has a court order pursuant to § 18.2-270.1 of the Code of Virginia shall use a remote alcohol monitoring device in Virginia unless enrolled in and monitored by the local ASAP. Prior to providing offender orientation of the device, the service provider shall first receive written or electronic authorization from the local ASAP for the particular offender. This section also applies to out-of-state offenders who have a Virginia court-ordered remote alcohol monitoring requirement. This enables the commission to maintain consistency in policy and use of remote alcohol monitoring devices in the ~~Commonwealth~~ of Virginia and allows for a consistent pattern of instruction to the manufacturer's service providers.

B. The remote monitoring device shall have orientation provided by a commission-approved service provider to the offender within 30 days of the date of the court order; ~~if not, if the offender is not at fault. In situations where orientation is not provided within 30 days of the date of the court order,~~ the service provider shall notify the local ASAP. Once orientation has occurred, the service provider shall notify the local ASAP via a method established by the commission, documenting that the remote alcohol monitoring device orientation has been completed.

C. All agreements between the service provider and the offender shall be in the form of a contract and signed by the service provider and the offender. Copies of the contract shall be retained by the service provider in a manner that complies with federal confidentiality guidelines, with a copy given to the offender.

D. Prior to orientation of the remote alcohol monitoring device, offenders shall provide to the service provider:

1. Photo identification; and
2. Written authorization from the commission when the air volume requirement, blow pressure, or anti-circumvention features of the remote alcohol monitoring device are to be lowered or disabled in order to compensate for an offender's diminished lung capacity, when applicable.

E. A training video for remote alcohol monitoring devices shall be developed and delivered by the service provider to the offender, including information on the use and maintenance of the device as well as procedures for regular and emergency servicing. A remote alcohol monitoring demonstration unit shall be made available to an offender at the offender's orientation appointment for training and practice purposes.

F. Prior to ~~attaching a transdermal unit~~ distributing a remote alcohol monitoring device to an offender,

the offender must be breath tested using a remote alcohol monitoring device certified by the commission for use in Virginia to confirm the offender has no BAC level. If during the orientation and demonstration of the remote alcohol monitoring device, the offender provides a positive BAC, the local ASAP shall be notified and the orientation appointment shall be rescheduled.

G. The service provider shall maintain a toll-free 24-hour emergency telephone service that may be used to request assistance in the event of failure of the remote alcohol monitoring device. The assistance provided by the authorized service provider shall include technical information. The remote alcohol monitoring device shall be made functional within 48 hours of the call for assistance or the remote alcohol monitoring device shall be replaced.

H. At the time of device orientation, a service provider may charge an orientation fee. The maximum permissible cost for orientation of the device shall be set by the commission, and service providers shall not be permitted to exceed the maximum fee established by the commission. A portion of these fees shall include costs for offender indigency funds. In addition to the maximum fee permitted, service providers may collect applicable taxes and charge for optional insurance to cover device theft or accidental damage. Optional insurance may be offered by the service provider, and a written copy of the insurance policy stating clearly the applicable coverages, coverage amounts, conditions, and exclusions shall be given to offenders who purchase the insurance.

I. The manufacturer or manufacturer's service providers shall provide service to those offenders who are eligible for a reduction in fees based upon a declaration of indigence by the court and approval by the commission.

J. A remote alcohol monitoring device installed and assigned to one offender shall not be assigned simultaneously to any additional offender for the purpose of attempting to comply with a court-ordered Virginia remote alcohol monitoring requirement.

K. Remote alcohol monitoring services provided by one service provider for an individual offender shall not be transferred to another remote alcohol monitoring service provider without written permission from the commission. If the offender's reason to transfer to another remote alcohol monitoring service provider is based upon a malfunctioning remote alcohol monitoring device or legitimate customer service issue, the commission shall not unreasonably deny permission.

L. Remote alcohol monitoring test times shall be set by the court of jurisdiction. In the absence of

recommended time settings by the court of jurisdiction, default test times shall be set by the ~~commission~~ executive director.

**24VAC35-70-90. Calibration and monitoring.**

A. Only calibration units found on the current National Highway Traffic Safety Administration's Conforming Products List of Calibrating Units for Breath Alcohol Testers or subsequently approved for inclusion in the next conforming products list publication, and certified by the commission shall be used by manufacturers or their a manufacturer's service providers ~~provider~~ to calibrate remote alcohol monitoring devices.

B. The manufacturer or the manufacturer's service provider shall:

1. Provide calibration and monitoring of the remote alcohol monitoring device at least every 30 days.

If the device self-system check during calibration indicates a potential inaccuracy issue, the manufacturer or service provider shall:

a. Check the remote alcohol monitoring device for accuracy using a dry gas reference sample approved by the commission;

b. Check the remote alcohol monitoring device for accuracy by using a dry gas alcohol standard with an alcohol reference value between 0.030 and 0.050 g/210L;

c. Expel a three-second purge of the remote alcohol monitoring device prior to introducing the alcohol reference sample into the device. This is not required if there is less than three inches of tubing from the dry gas dispenser to the device;

d. Perform an accuracy check that will consist of two consecutive reference checks with the result of each individual check being within plus or minus 10% or 0.003, whichever is ~~greater~~ smaller, of the alcohol reference value introduced into the remote alcohol monitoring device. The time period between the first and second consecutive accuracy checks shall not exceed five minutes; and

e. Store dry gas alcohol standard tanks in a manner consistent with the gas manufacturer's specifications. The dry gas tanks shall have a label attached that contains the components and concentration of the reference value of the gas, an expiration date that shall not be longer than three years from the date of preparation, and the lot or batch number. Dry gas alcohol standards must be certified to a known reference value and be traceable to the National Institute of

Standards and Technology. The reference value shall be adjusted for changes in elevation and pressure. ~~Manufacturers~~ A manufacturer or ~~their~~ a manufacturer's service providers provider shall possess a certificate of analysis from the dry gas standard manufacturer. Dry gas tanks shall be secured in a manner as to prevent harm to the public;

2. Retrieve data from the remote alcohol monitoring device data log for the previous period and electronically submit alcohol-related violations to the local ASAP within 24 hours of retrieval;
3. Check the remote alcohol monitoring device for signs of circumvention or tampering if suspicious activity has been indicated to the service provider and electronically report violations to local ASAP ~~within the required timeframe established by the commission~~ 24 hours of retrieval;
4. Collect the monthly monitoring fee from the offender. If an offender who has not been declared to be indigent by the court is one or more months delinquent in payments, the service provider may, in its discretion, refuse to provide services but shall not retrieve the remote alcohol monitoring device without authorization from the commission. Offenders with an outstanding balance in excess of \$250 with any Virginia-approved remote alcohol monitoring device service provider shall not be permitted to install a remote alcohol monitoring device with another remote alcohol monitoring service provider unless otherwise approved by the commission; and
5. Conform to other calibration requirements established by the commission, as applicable.

C. All malfunctions other than routine maintenance of the remote alcohol monitoring device shall be either repaired or replaced by the manufacturer within two business days at no additional expense to the offender. If it is shown that the malfunction is due to damage to the device as a result of mistreatment or improper use, the offender shall be responsible for applicable repair or replacement fees. Routine maintenance of the device may be performed by the service provider.

D. The remote alcohol monitoring device shall record, at a minimum, the following data:

1. The time and date of all breath or transdermal tests;
2. The breath or transdermal alcohol level of all tests;
3. The time and date of attempts to tamper or circumvent the remote alcohol monitoring device;
4. For a unit that uses a breath sample, a photo of each person delivering an accepted breath test sample for analysis by the remote alcohol monitoring device; and

5. A reference photo of the offender.

E. A service provider may charge a monthly monitoring fee. The maximum permissible cost for monitoring and calibration shall be set by the commission through the remote alcohol monitoring regulations, and service providers shall not be permitted to exceed the maximum fee established by the commission. A portion of these fees shall include costs for administrative support and offender indigency funds. In addition to the maximum fee permitted, service providers may collect applicable taxes and charge for optional insurance to cover device theft and accidental damage. Fees for the first monthly monitoring and calibration visit will be collected from the ~~user~~ offender in advance at the time of installation and monthly thereafter when services are rendered.

**24VAC35-70-100. Remote alcohol monitoring device retrieval.**

A. Prior to retrieval of the remote alcohol monitoring device, the service provider must receive written or electronic authorization from the local ASAP. This requirement also applies to offenders with a court-ordered Virginia remote alcohol monitoring requirement who are receiving services from a service provider in another state.

B. Offenders may not have their remote alcohol monitoring device retrieved or replaced by another manufacturer without written or electronic authorization from the commission. Whenever retrieval of a remote alcohol monitoring device is approved by the commission for the purpose of changing service providers, and the authorized retrieval is a result of a determination that the initial service provider failed to provide a level of service meeting contract requirements, the remote alcohol monitoring regulations, or the Code of Virginia, the original service provider shall bear the costs associated with orientation of the device by the new service provider.

C. Once the remote alcohol monitoring device has been retrieved, the service provider shall send an authorized report to the local ASAP via a method established by the commission documenting that the remote alcohol monitoring device has been retrieved by the service provider.

D. No fee shall be charged to the offender for retrieval of the remote alcohol monitoring device.

**24VAC35-70-110. Records and reporting.**

A. The service provider shall be subject to announced or unannounced site reviews by the commission for the purpose of inspecting the facilities and offender records. Upon request, access to all service provider locations, records, and financial information shall be provided to the commission for the purpose of

verifying compliance with state laws, commission regulations, and service provider agreements.

B. In accordance with federal confidentiality guidelines, all personal and medical information provided to the service provider regarding offenders shall be kept confidential. If the information is temporarily held at the offender's service center, it shall be stored in a locked filing cabinet when unattended by a service provider employee. For the purposes of this subsection, "service center" means the physical location where remote alcohol monitoring services are performed.

C. After providing orientation for a remote alcohol monitoring device, the service provider shall provide the local ASAP, within 24 hours, an orientation report that includes:

1. The name, address, and telephone number of the offender; and
2. The serial number of the offender's remote alcohol monitoring device.

D. After performing a monitoring and calibration check, the service provider shall submit to the local ASAP, within 24 hours, all data generated, to include:

1. Name of the offender whose device was monitored;
2. Name, address, and telephone number of the monitoring official;
3. Date of monitoring and calibration;
4. Make, model, and serial number of the remote alcohol monitoring device;
5. Attempts to alter, tamper with, circumvent, bypass, or otherwise remove the device;
6. Noncompliance with conditions of the local ASAP or remote alcohol monitoring program;
7. Offender concerns;
8. Charges incurred for the monitoring visit;
9. Date of the next scheduled monitoring visit;
10. For devices that use a breath sample, a photo of each person who has delivered an accepted breath test sample or missed a retest on the remote alcohol monitoring device;
11. A reference photo of the offender; and
12. All identified alcohol-related violations.

E. In addition, the service provider shall have available monthly reports detailing:

1. Device orientations during the period covered;
2. Calibrations performed during the period by date and offender name, detailing any unit replacements made during the monitoring period;
3. Datalogger information from all remote alcohol monitoring devices;
4. Attempts to alter, tamper with, circumvent, bypass, or otherwise remove the device;
5. Device failure due to material defect or improper device set up; and
6. A summary of complaints received and corrective action taken.

F. The manufacturer or the manufacturer's service provider shall be responsible for purchasing and providing necessary computer hardware and software to convey all data and information requested by the commission if the equipment is not already present at the commission office or the local ASAP.

G. Accurate reports shall be submitted to the local ASAP in the a format specified by the commission.

H. The service provider shall provide a copy of the most recent "ASAP Remote Alcohol Monitoring Agreement" to each offender at each offender's remote alcohol monitoring installation appointment and shall require the offender to read and sign the agreement.

I. The service provider shall maintain secure websites, databases, and information systems for the collection, transmission, storage, and management of all data associated with the remote alcohol monitoring program. Service providers shall implement appropriate administrative, technical, and physical safeguards consistent with industry best practices to protect the confidentiality, integrity, and availability of such information. All data collection, storage, and processing activities shall comply with applicable state and federal privacy, cybersecurity, and confidentiality laws and regulations, and providers shall take all reasonable steps to prevent unauthorized access, disclosure, alteration, or misuse of program data.

J. The service provider shall submit to any commission inspection of records and abide by commission reporting directives.

**24VAC35-70-120. General manufacturer requirements.**

Remote alcohol monitoring manufacturers that are approved to perform remote alcohol monitoring services in ~~the Commonwealth of Virginia~~ and their service providers shall:

1. Abide by all commission memorandums, directives, contract terms, and regulations pertaining to the statewide remote alcohol monitoring program unless prohibited by state law;

2. Resolve offender, court, Department of Motor Vehicles, local ASAP, commission, and other stakeholder complaints as directed by the commission;
3. Provide orientation for all local ASAP remote alcohol monitoring device authorizations within the time parameters set forth by the commission. In situations where a remote alcohol monitoring service facility becomes inoperable due to a large-scale weather event or other verified unforeseen circumstances, the manufacturer shall contact the commission within 24 hours with an action plan to mitigate the impact to customer service;
4. Resolve remote alcohol monitoring service facility compliance issues as directed by the commission;
5. Obtain approval from the commission before disseminating any offender training or advertising materials used in association with the Virginia remote alcohol monitoring program;
6. Make modifications to the company website of the manufacturer or the manufacturer's service provider that is used to review monthly calibration reports upon reasonable request by the commission. Reasonable requests include changes due to language that is confusing, misleading, offensive, or inaccurate; changes required due to updated technology; changes to comply with the Code of Virginia or the remote alcohol monitoring regulations; or changes due to workload changes or product enhancements;
7. Assume full liability for action taken or not taken by an a local ASAP or the commission due to failure by a manufacturer or a manufacturer's service provider to report an alcohol-related violation to the local ASAP as required by this chapter or due to inaccurate or misleading reporting, whether electronic or hard copy, provided by the manufacturer or the manufacturer's service provider;
8. Be accountable for Virginia offenders with remote alcohol monitoring devices set up for use by its company in another state and ensure that all Virginia remote alcohol monitoring processes, regulations, requests for proposal terms, contract terms, and commission requirements are met unless prohibited by state law;
9. Notify the commission within 15 days of disciplinary action received from a state where the manufacturer conducts or has conducted remote alcohol monitoring business. This notification shall include the reason for the disciplinary action. This requirement applies regardless of the existence of an appeal;

10. Provide information technology assistance and training upon reasonable request by the commission; ~~and~~

11. Report all changes to the remote alcohol monitoring device software or firmware, whether temporary or permanent, to the commission within 30 days of release in ~~the Commonwealth of Virginia; and~~

12. For approved remote alcohol monitoring service providers, report any offender violation, tampering event, or confirmed noncompliant alcohol test result to the offender's assigned reporting agency within 24 hours of becoming aware of the event.

**24VAC35-70-130. Service provider technician certification.**

A. Service provider technicians and state directors are required to possess a Virginia Remote Alcohol Monitoring Certification Letter to perform any remote alcohol monitoring services in ~~the Commonwealth of Virginia~~. Newly hired service provider technicians or state directors, however, may perform remote alcohol monitoring services under the direct supervision of a certified technician or state director for training purposes for up to 90 days prior to obtaining a Virginia Remote Alcohol Monitoring Certification Letter. The executive director may, in their discretion, grant a written extension of the 90-day period for good cause shown. In order to apply for a certification letter, manufacturers shall submit a completed application to the commission for approval of newly hired service provider technicians and state directors. The completed application shall include submission of:

1. ~~A completed applicant form provided by the commission~~ An official written request to certify a technician or state director;
2. A complete local and national criminal history check;
3. A complete driver's record; and
4. Documentation issued by the commission of successful completion of the Virginia Remote Alcohol Monitoring Device Certification Exam.

Failure to submit a completed application will result in disqualification from consideration for a Virginia Remote Alcohol Monitoring Certification Letter by the commission to perform remote alcohol monitoring services in ~~the Commonwealth of Virginia~~.

B. Applicants shall be required to complete a Virginia Remote Alcohol Monitoring Certification Exam.

Successful completion of the exam requires a score of 80% or higher. Applicants who fail to successfully complete the state certification exam on the first attempt shall be allowed a second opportunity to successfully complete the exam. Applicants who fail to successfully complete the state certification exam on the second attempt shall not be allowed to reapply to provide remote alcohol monitoring services for ~~the Commonwealth of Virginia~~ for six months from the date of the second failed exam. Service providers shall be required to pay an administrative fee, as provided in 24VAC35-70-60 B 4, to the commission for all second and subsequent attempts to successfully complete the state certification exam. Applicants who successfully pass the state certification exam will receive documentation of successful completion from the commission that shall be submitted with the application for the Virginia Remote Alcohol Monitoring Certification Letter to perform remote alcohol monitoring services in ~~the Commonwealth of Virginia~~.

C. The ~~commission~~ executive director may deny, revoke, suspend, or terminate a Virginia Remote Alcohol Monitoring Certification Letter for a service provider technician or state director for any of the following reasons:

1. Having been convicted of a felony;
2. Having been convicted of a misdemeanor potentially punishable by confinement;
3. Committing an unethical, deceptive, or dishonest act that negatively impacts the integrity of the remote alcohol monitoring program;
4. Failing to demonstrate sufficient knowledge or skill required to perform remote alcohol monitoring services in ~~the Commonwealth of Virginia~~;
5. ~~Material misstatement~~ Materially misstating or omission omitting information in an application; ~~or~~
6. Defrauding any offender, manufacturer, service provider, or other person or entity in the conduct of the licensee's business; or
7. Having previously demonstrated conduct, performance deficiencies, or professional misconduct while employed by or affiliated with another employer, contractor, agency, or service provider that reasonably indicates the applicant may be unable or unwilling to perform the duties required by certification in a competent, ethical, or compliant manner. In making such determination, the executive director may consider, but is not limited to considering, documented disciplinary actions, substantiated complaints, termination for cause, repeated performance deficiencies, violations of professional standards, or other credible evidence of conduct that adversely reflects on the

applicant's reliability, integrity, or ability to comply with applicable laws, regulations, or program requirements.

A service provider technician or state director whose Virginia Remote Alcohol Monitoring Certification Letter has been denied, revoked, suspended, or terminated may request judicial administrative review by the agency in accordance with the ~~provisions of the~~ Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) by requesting an agency hearing within 30 days of notification of such revocation or suspension. Such request shall be in writing and directed to the executive director. In the event that the decision to suspend or revoke the Virginia Remote Alcohol Monitoring Certification Letter of a service provider's technician or state director is upheld, the service provider technician or state director shall not perform remote alcohol monitoring services in the Commonwealth of Virginia for the entire suspension period, or in the case of a revocation or termination, on a permanent basis. This prohibition includes any period during which the denial, suspension, revocation, or termination is being contested. ~~The manufacturer is required to return the Virginia Remote Alcohol Monitoring Certification Letter to the commission within 15 days of the date that the certification was suspended, revoked, or terminated by the commission.~~

D. Once the completed application has been approved by the commission and all other qualifications have been met by the applicant, a Virginia Remote Alcohol Monitoring Certification Letter to perform remote alcohol monitoring services in ~~the Commonwealth of~~ Virginia shall be issued to the applicant by the commission. The certification letter shall contain the effective date of the letter and a certification number specific to the applicant. The certification letter will be valid for a time period specified by the commission unless otherwise suspended, revoked, or terminated, ~~but for no longer than the manufacturer contract end date.~~ In the event that an applicant is not approved for a Virginia Remote Alcohol Monitoring Certification Letter to perform remote alcohol monitoring services in ~~the Commonwealth of~~ Virginia, the commission will notify the manufacturer in writing within 10 days of the determination. The Virginia Remote Alcohol Monitoring Certification Letter is subject to review by the commission at its discretion during the course of the certification period.

E. ~~An application to renew a Virginia Remote Alcohol Monitoring Certification Letter for a remote alcohol monitoring service provider technician or state director shall be submitted 30 days prior to the expiration date printed on the current certification letter.~~ A service provider technician or state director who has had his state certification revoked or terminated shall be ineligible to reapply for a Virginia Remote Alcohol Monitoring Certification Letter unless otherwise approved by the commission.

~~F. Manufacturers are required to surrender Virginia Remote Alcohol Monitoring Certification Letters for service provider technicians and state directors who are no longer employed with their company. The surrendered certification letter shall be sent~~ provide notification to the commission, within 15 days of the ~~date that the service provider technician or state director is no longer employed with the service provider or manufacturer~~ when a technician or state director is no longer employed with the service provider.

~~G. Service providers are required to notify the commission in writing of any employee who is no longer an employee of the service provider within 48 hours of the service provider technician or state director's employment end date. Any service provider technician or state director whose employment ends for any reason, whether voluntary or involuntary, shall have the Virginia Intelligent Speed Assistance Certification Letter automatically expire on the date of separation. Any individual whose certification expires under this subsection must complete the applicable certification requirements of this section at the time of employment, re-employment, or consideration of employment, with any remote alcohol monitoring manufacturer or manufacturer's service provider in order to be recertified.~~

~~G. H.~~ In addition to the successful completion of the Virginia Remote Alcohol Monitoring Certification Exam required for application, the commission may order that a certified technician or state director already performing remote alcohol monitoring services in ~~the Commonwealth of Virginia~~ review requirements and retake the state certification exam to demonstrate that the technician or state director possesses the knowledge required to perform remote alcohol monitoring services. An exam retake fee is not applicable in this circumstance.

Project 8609 - None

**Commission On The Virginia Alcohol Safety Action Program**

**Amendments to Virginia's Ignition Interlock Regulations**

Chapter 60

Ignition Interlock Program Regulations

**24VAC35-60-20. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Alcohol" means ethyl alcohol, also called ethanol (C<sub>2</sub>H<sub>5</sub>OH).

"Applicant" means a service provider technician or state director who applies for a Virginia Ignition Interlock Certification Letter from the commission.

~~"ASAP" means a local alcohol safety action program.~~

"BAC" or "blood alcohol concentration" means the amount of alcohol in an offender's blood or breath, as determined by chemical analysis, that is measured by the number of grams of alcohol per 100 milliliters of blood or 210 liters of breath.

"Breath test" means an analysis of the breath alcohol concentration of a deep lung breath sample.

"Calibration" means the process that ensures an accurate blood alcohol concentration reading is being obtained on the ignition interlock device.

"Commission" means the Commission on Virginia Alcohol Safety Action Program (VASAP), as established pursuant to § 18.2-273.2 of the Virginia Code, or its designee.

"Deep lung breath sample," also known as "alveolar breath sample," means an air sample that is the last portion of a prolonged, uninterrupted exhalation and that gives a quantitative measurement of blood alcohol concentration from which breath alcohol concentrations can be determined. "Alveolar" refers to the alveoli that are the smallest air passages in the lungs surrounded by capillary blood vessels and through which an interchange of gases occurs during respiration.

"Device" means a breath alcohol ignition interlock device.

"Device certification" means the testing and approval process required by the Commission on Virginia Alcohol Safety Action Program.

"DMV Department" means the Virginia Department of Motor Vehicles.

"Executive director" means the executive director of the Commission on Virginia Alcohol Safety Action Program.

"Executive Finance Committee" means the advisory subcommittee of the commission, ~~composed of the Executive Director of the Commission on Virginia Alcohol Safety Action Program, two executive director and other members that the commission members, and such other persons as the commission designates may designate, which is authorized to take action on behalf of the commission for a period not to exceed 90 days in matters of program certification, suspension, or related fiscal oversight.~~

"Fail point" means the level at which the breath alcohol concentration, as established in § 18.2-270.1 of the Code of Virginia, is sufficient to prevent a motor vehicle equipped with an ignition interlock device from starting.

"Free restart" means the ability to start the engine again within a two-minute period of time without completion of another breath test when the condition exists where a breath test is successfully completed and the motor vehicle is started, but then the engine stops for any reason.

"Ignition interlock system" means a device that (i) connects a motor vehicle ignition system to an analyzer that measures an offender's blood alcohol concentration; (ii) prevents a motor vehicle ignition from starting if the offender's blood alcohol concentration reaches the fail point; and (iii) is equipped with the ability to perform a rolling retest and to electronically log the blood alcohol concentration during ignitions, attempted ignitions, and rolling retests. The ignition interlock system is synonymous with breath alcohol ignition interlock device as it pertains to these regulations.

"Interlock event" means vehicle operator activity that is recorded by the ignition interlock system to include, but not be limited to, vehicle starts and attempted starts, rolling retests, breath tests, lockouts, ignition shutoffs, power outages, and interlock tampering.

"Local alcohol safety action program" or "local ASAP" means a program established pursuant to § 18.2-273.4 of the Code of Virginia that provides probation, education, and rehabilitation services for persons referred by a court, the Department, or any other source approved by the commission.

"Lockout" means the ability of the ignition interlock device to prevent a motor vehicle's engine from

starting.

"Manufacturer" means the actual maker of the ignition interlock device that assembles the product and distributes it to service providers.

"Motor vehicle" means a motor vehicle as defined in §§ 18.2-266 and 46.2-100 of the Code of Virginia.

"Offender" means the individual required by the court or the Department of Motor Vehicles to drive only motor vehicles that have certified ignition interlock devices installed.

"Permanent lockout" means a feature of the ignition interlock device that prevents a motor vehicle from starting until the ignition interlock device is reset by a service provider.

"Retest" means an additional opportunity to provide a deep lung breath sample below the alcohol fail point.

"Rolling retest" means a test of the offender's blood alcohol concentration required at random intervals during operation of the motor vehicle that triggers the sounding of the horn and flashing of lights if (i) the test indicates that the offender has a blood alcohol concentration that reaches the fail point or (ii) the offender fails to take the test.

"Service center facility" means the physical location where the service provider installs, calibrates, and removes the ignition interlock device on the offender's vehicle.

"Service provider" means an authorized supplier and installer of the approved ignition interlock devices. In some cases, the service provider may also be a manufacturer of an ignition interlock device.

"State director" means a service provider employee who provides oversight of the service provider's ignition interlock operations in ~~the Commonwealth of Virginia~~.

"Tampering" means an unlawful act or attempt to disable or circumvent the legal operation of the ignition interlock device to include providing samples other than the natural breath of the offender, starting the motor vehicle via unconventional means without first taking and passing a breath test, or physically tampering with the device to disable or otherwise disconnect the device from its power source.

"Technician" means a service provider employee who installs, calibrates, or removes interlock devices ~~in the Commonwealth of Virginia~~.

"Temporary lockout" means a feature of the ignition interlock device that will not allow the motor vehicle to start for a preset time period after a breath test result indicates a BAC that reaches the fail point.

~~"Vendor certification" means the process of determining that a vendor has been approved to provide ignition interlock services in the Commonwealth of Virginia.~~

"Violation" means an event, such as a breath test indicating a BAC reaching the fail point upon initial startup; a refusal to provide a rolling retest deep lung breath sample; a rolling retest with a BAC reaching the fail point; altering, concealing, hiding, or attempting to hide one's identity from the ignition interlock system's camera while providing a breath sample; or tampering, that breaches the guidelines for use of the interlock device.

"Violation reset" means a feature of the ignition interlock device that activates a service reminder due to a violation or failure to report for calibration within 30 days of the installation or previous calibration.

"Virginia Ignition Interlock Certification Exam" means an exam administered by the commission to service provider state directors and technicians that must be successfully completed and submitted as a component of an application for a "Virginia Ignition Interlock Certification Letter."

"Virginia Ignition Interlock Certification Letter" means a letter issued by the commission to a service provider technician or state director authorizing the technician or state director to perform ignition interlock services in ~~the Commonwealth of Virginia.~~

**24VAC35-60-30. When ignition interlock devices are required.**

Ignition interlock devices are required:

1. When ordered by a court of proper jurisdiction pursuant to § 18.2-270.1 of the Code of Virginia; or
2. When administratively enforced by ~~DMV~~ the department pursuant to § 46.2-391.01 of the Code of Virginia.

**24VAC35-60-40. Approval of manufacturers and service providers.**

A. The commission shall issue a request in compliance with ~~the Commonwealth of Virginia~~ Virginia's procurement procedures to contract with ignition interlock service providers for the services and commodities required for the implementation and maintenance of ~~the Commonwealth's~~ Virginia's ignition interlock program. Contracts will be for a length of time established by the commission. Absent exigent circumstances necessitating additional providers or services, the commission shall not enter into additional contracts with service providers, except during a procurement period where the commission is reviewing service provider contracts for approval.

B. Integrity of the ignition interlock program shall be upheld by restricting the delivery of interlock service to the actual provider of the product (authorized service provider), thereby effectively preventing the extension of subcontracts to other persons or businesses that lack long-term investment, long-term experience, or in-depth knowledge of product and service, potentially resulting in a higher likelihood of neglect of duty or illegal exchange of funds. Denial of subcontracting of the interlock service to the consumer is an integral part of protecting offender confidentiality and the chain of evidence for court testimony and evidentiary procedures.

C. The service provider must maintain an independent service facility; therefore, no two service providers shall share the same physical ignition interlock service facility for the purpose of providing ignition interlock services to offenders in Virginia. In the event that a shared facility arrangement is identified, both service providers shall be deemed in violation of this section. Sharing the same physical ignition interlock service facility will result in the closure of the shared facility. Both service providers shall be responsible for ensuring continued service, and such closure shall not relieve either service provider of its obligation to provide services to offenders in accordance with the 50-mile radius requirement set forth in subsection D of this section. Failure to do so may result in suspension or revocation of certification pursuant to 24VAC35-60-60.

~~G. D.~~ A service provider seeking to contract with the commission shall:

1. Submit evidence demonstrating successful experience in the development and maintenance of an ignition interlock service program in Virginia, other states, or other countries. The service provider shall be dedicated to the installation and maintenance of ignition interlock devices;
2. Supply and train staff and service center facility supervisors to ensure good customer service and compliance with the Code of Virginia, ignition interlock regulations, and all contract requirements.

This includes:

- a. Personnel seeking to perform ignition interlock services or administrative duties in the Commonwealth of Virginia shall not necessarily be barred from employment due to a criminal record; however, a criminal record may be considered in conjunction with other information to determine the overall suitability of applicants for employment.
- b. The authorized service provider shall provide, upon request of the commission or the court via a properly served subpoena, expert or other required testimony in any civil, criminal, or

administrative proceedings as to the method of manufacturing the device, ignition interlock functionality, and the testing protocol by which the device is calibrated and serviced.

c. The service provider shall provide a completed application for state certification to the commission to perform ignition interlock services for all technicians and state directors seeking to work in ~~the Commonwealth~~ of Virginia. The application shall be submitted at least 10 days prior to the employee performing any ignition interlock services in ~~the Commonwealth~~ of Virginia with the exception of newly hired employees in training who shall be permitted to perform services while under the direct supervision of a certified technician for a period of 90 days prior to applying for state certification.

d. The service provider shall identify all key personnel who will be providing ignition interlock services for ~~the Commonwealth~~ of Virginia and furnish the commission with credentials on these personnel.

e. The service provider shall notify the commission at least five business days in advance of a reduction in staffing levels of key personnel at the local or district offices in ~~the Commonwealth~~ of Virginia.

f. The service provider shall ensure that technicians and the state director are trained and available to testify in court if required by a court or ~~Commonwealth's Attorney~~ attorney for the Commonwealth or upon a 10-business-day notice by the local ASAP in that court's jurisdiction, regardless of whether a subpoena is issued;

3. Submit a description of the service provider's plan to be approved by the commission, for distribution of the device in all locations of ~~the Commonwealth~~ of Virginia where ignition interlock services will be performed. At least one physical ignition interlock service facility shall be located within a 50-mile radius of every residence in ~~the Commonwealth~~ of Virginia unless otherwise authorized by the commission. Ignition interlock service providers shall provide the commission with a list of all service ~~center~~ facility days and hours of operation and provide an updated list within 24 hours of any changes. Interlock service facilities shall be inspected and certified by the commission prior to the initial provision of services to offenders. ~~Each interlock service facility shall be inspected and certified at least annually thereafter.~~ Interlock service providers shall:

a. Comply with all local business license and zoning regulations; and with all federal, state, and

local health, fire, and building code requirements. Prior to the jurisdictional compliance deadline, a copy of a valid business license or business license payment receipt shall be forwarded to the commission. The official valid business license and tax document are required to be posted in a conspicuous place at the service facility immediately upon receipt when applicable;

b. Comply with all local, state, and federal laws pertaining to the provision of physical access to persons with disabilities;

c. Maintain offender records in a manner that complies with federal confidentiality and state records retention guidelines. All offender files, payment receipts, and other identifying information shall be located in locked filing cabinets when unattended by a technician. Storage of files elsewhere may occur if the files are stored in locked filing cabinets in one centralized location in the Richmond, Virginia area. ~~Electronic storage of client files shall be~~ or electronically stored as long as all data is encrypted and secured to prevent ~~third-party~~ third-party access;

d. Require and enforce maintenance of a drug-free workplace and have posted in a conspicuous place, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the service provider's workplace. The notice shall specify the actions that will be taken against employees for violations of the policy;

e. Replace an ignition interlock service facility within 90 days whenever the closing of an interlock service facility results in noncompliance with the requirement to possess a facility within a 50-mile radius of every residence in ~~the Commonwealth of~~ Virginia. The service provider is also required to notify offenders of the closure date and the address of an alternate interlock service facility within 15 days of the closure date;

f. Ensure that technicians maintain a professional appearance and are attired in such a manner as to be readily identifiable as service provider employees;

g. Ensure that interlock service facilities are tidy and pose no hazards to public safety; and

h. Provide the commission, at a minimum of 20 days, with a 20-day notice prior to the scheduled opening date of a new location. This requirement allows the commission reasonable time to schedule an inspection of the new facility prior to opening services to local ASAP offenders;

4. Submit sufficient documentation to enable the verification of adequate insurance covering liability

related to ignition interlock operations, services, and equipment, including coverage in Virginia, with a minimum policy limit of \$1 million per occurrence and \$3 million general aggregate total. The service provider's liability insurance shall be considered primary above all other available insurance and shall so stipulate in the "other insurance" or other applicable section of the service provider's insurance contract. The service provider shall provide a signed statement from the manufacturer holding harmless ~~the Commonwealth of~~ Virginia and the commission and its members, employees, and agents from all claims, demands, and actions as a result of damage or injury to persons or property that may arise directly or indirectly out of an act or omission by the manufacturer or its service provider relating to the installation, service, repair, use, or removal of an ignition interlock device. Coverage shall extend to any action taken or not taken by local ASAPs or the commission due to verified errors in reporting of interlock activity by the service provider;

5. Submit documentation that the service provider will provide a full-time state ignition interlock director who will work exclusively with the Virginia interlock program. Among other duties, the state ignition interlock director will be expected to (i) respond promptly to problems in the field; (ii) upon request of the commission, testify before applicable courts, the General Assembly of Virginia, or the commission; (iii) assist and provide training to the commission, local ASAP ~~staffs~~ staff, ~~local and statewide~~, and other stakeholders as requested by the commission; and (iv) be responsible for quality control reports and statistics, updates to all required documentation, and field services reporting and repairs. Ignition interlock state directors are also permitted to oversee remote alcohol monitoring programs for a Virginia-approved remote alcohol monitoring device manufacturer and intelligent speed assistance program for a Virginia-approved intelligent speed assistance device manufacturer or service provider. In the event of a state director vacancy, service providers shall submit to the commission the name of an interim state director within 10 days of the vacancy and the name of a permanent state director within 90 days of the vacancy;

6. ~~Not Certify that the service provider does not and will not~~ discriminate against an employee or applicant for employment due to race, religion, color, sex, national origin, age, disability, or other basis prohibited by state or federal law relating to discrimination in employment, ~~except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the service provider~~. The service provider agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

Furthermore, the service provider in all solicitations or advertisements for employees placed by or on behalf of the service provider shall state that the contractor is an equal opportunity employer. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this subdivision;

~~7. Not knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986 (P.L. 99-603; 100 Stat. 3359) during the performance of the contract for goods and services;~~

~~8. 7.~~ Notify the commission in writing within 15 days of a disciplinary action taken by a state or other political entity in which the service provider conducts or has conducted ignition interlock business. This notification shall include the reason for the disciplinary action and other information as the commission may reasonably request. This requirement applies regardless of the existence of an appeal; and

~~9. 8.~~ Notify the commission in writing of all final adjudications unfavorable to the service provider related to the ignition interlock device or delivery of ignition interlock services.

~~10. E.~~ Provided that all vendor and device certification requirements are met, the commission may contract with those manufacturers or service providers and may approve multiple makes and models of ignition interlock devices for use in ~~the Commonwealth of Virginia.~~

#### **24VAC35-60-50. Fees.**

A. All potential service providers desiring to conduct business in ~~the Commonwealth of Virginia's~~ ignition interlock program shall submit a \$250 nonrefundable application fee to the commission.

B. The following additional fees shall be paid by the service provider to the commission:

1. A \$250 annual contract review fee;
2. A \$75 annual review fee for each ignition interlock service ~~center~~ facility;
3. A \$250 retest fee each and every time a service provider employee is required to take a second or subsequent Virginia Ignition Interlock Certification Exam due to an unsuccessful attempt on the first exam;
4. A \$20 monthly ignition interlock administrative fee for each offender. The fee shall be accompanied by an associated offender list, categorized by local ASAP, supporting the payment

amounts. The local ASAP offender list and payment shall be submitted no later than the 10th day of the month following the month when the ignition interlock services were provided; and

5. A \$2,500 fee per each new ignition interlock device certification application submitted to the commission that was not previously certified in ~~the Commonwealth~~ Virginia.

C. Service providers may charge offenders for ignition interlock services at rates up to, but not to exceed, the following:

1. \$65 for a standard ignition interlock installation;
2. \$130 for the installation of an ignition interlock on a hybrid motor vehicle, motor vehicle with a push button starter, or other vehicle requiring more than four hours of installation labor time when approved by the commission;
3. \$75 for a change of vehicle ignition interlock installation;
4. \$0 for an ignition interlock removal;
5. \$95 plus applicable taxes for monthly ignition interlock calibrations or monitoring, inclusive of the monthly administrative fees to be paid to the commission;
6. \$8.00 per month for optional insurance to cover theft or accidental damage to the ignition interlock and its components;
7. An amount of 10% over the actual replacement cost of the ignition interlock and its components when theft or accidental damage occurs and the offender has not purchased the optional insurance;
8. \$50 plus mileage calculated at ~~the Commonwealth of Virginia~~ Virginia's mileage rate in effect at the time, not to exceed 100 miles, for service calls;
9. \$50 for violation resets, when the violation is determined to be due to the fault of the offender;
10. \$35 for missed appointments;
11. An amount permitted by the Code of Virginia at the time for returned checks;
12. \$50 for provision of a permanent lockout code, when the lockout is determined to be due to the fault of the offender; and
13. \$50 per hour, not to exceed four total hours, for repairs and reinstallation of the ignition interlock when the commission determines that the offender illegally tampered with the device.

D. In the event of changes to the Code of Virginia or the Ignition Interlock Program Regulations (24VAC35-60) mandating enhanced technological capabilities of ignition interlock devices used in the Commonwealth Virginia, the commission may increase offender installation and calibration fees up to a maximum of 25%.

E. All service providers shall create and maintain an indigency fund for offenders who are eligible for a reduction in fees based upon a declaration of indigency by the court and approval by the commission. Service providers shall not deny service to any offender for whom there has been a declaration of indigency and approval by the commission.

**24VAC35-60-60. Suspension or revocation of ignition interlock device or service facility certification.**

A. The commission may indefinitely suspend or revoke certification of an ignition interlock device or ignition interlock service facility, ~~and the~~ The Executive Finance Committee, ~~for a period not to exceed 30 days,~~ may suspend, for a period not to exceed 90 days, or revoke certification of an ignition interlock device or ignition interlock service facility for the following reasons:

1. When there is a voluntary request by a manufacturer to cancel certification of a device;
2. When a device is discontinued by the manufacturer;
3. When the manufacturer's liability insurance is terminated or canceled or, in cases where the service provider is responsible for the liability insurance, the insurance is canceled and not remedied by the service provider within three business days;
4. When the manufacturer or service provider attempts to conceal its true ownership;
5. When materially false or inaccurate information is provided relating to a device's performance standards;
6. When there are defects in design, materials, or workmanship causing repeated failures of a device;
7. When the manufacturer or service provider knowingly permits nonqualified service technicians to perform work;
8. When a manufacturer or service provider assists users with circumventing or tampering with a device;

9. When a service provider fails to fully correct an identified ignition interlock facility noncompliance issue within the timeframe required by the Code of Virginia, the provisions of this chapter, or a service provider contract;

10. When there is a pattern of identified interlock service facility noncompliance issues;

11. When a service provider impedes, interrupts, disrupts, or negatively impacts an investigation conducted by the commission involving customer service issues, vehicle damage, or other complaint brought forward by a third party; ~~or~~

12. When there is an identified public safety or client confidentiality issue at an ignition interlock service facility; or

13. When a service provider is found to be sharing the same physical ignition interlock service facility with another service provider.

B. If a suspension or revocation of an ignition interlock device or service facility certification occurs, the manufacturer or service provider may request ~~judicial~~ administrative review by the agency in accordance with the ~~provisions of the~~ Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) by requesting an agency hearing within 30 days of notification of such revocation or suspension. Such request shall be in writing and directed to the executive director. Should a revocation of certification be upheld, the manufacturer or service provider whose device has been revoked (i) shall be responsible for removal of all devices installed and serviced by the service provider that are subject to the revocation; and (ii) will bear the costs associated with the required removal and installation of new approved devices. In addition, the manufacturer or service provider whose device or facility is subject to the revocation shall continue to provide services for these local ASAP offenders for a time to be determined by the commission, but no longer than 90 days.

C. When the certification of an ignition interlock device or ignition interlock service facility is suspended or revoked, service providers or manufacturers shall continue to provide services for local ASAP offenders; however, no new ignition interlock installations shall be permitted during the period of suspension.

D. If a service provider terminates the contract or goes out of business, the manufacturer or service provider shall be responsible for removal of all devices installed and serviced by the service provider that terminates the contract or goes out of business and shall bear the costs associated with the required removal and installation of new approved devices. In addition, the manufacturer or service provider that

terminates the contract or goes out of business shall continue to provide services for these local ASAP offenders for 90 days from the date of the service provider's notification to the commission that ~~they~~ the service provider will be terminating ignition interlock services in Virginia.

**24VAC35-60-70. Ignition interlock device specifications.**

A. All ignition interlock devices used pursuant to §§ 18.2-270.1 and 46.2-391.01 of the Code of Virginia shall be approved by the commission. The commission shall maintain a list of approved ignition interlock devices.

B. A service provider seeking to contract with the commission shall submit:

1. The name and address of the ignition interlock device manufacturer;
2. The name and model number of the ignition interlock device; and
3. A detailed description of the device, including drawings, schematics, wiring protocols, and instructions for its installation and operation.

C. The manufacturer or service provider shall provide literature promoting its device to the commission and for distribution to the local ASAPs.

D. The manufacturer or service provider shall provide certification from an independent laboratory that its ignition interlock device has been tested in accordance with the most current model specifications published in the Federal Register by the National Highway Traffic Safety Administration. The manufacturer or service provider is required to provide a certified affidavit that the ignition interlock device model complies with all applicable state standards, including written documentation, current within five years, from either a certified testing laboratory or a National Highway Traffic Safety Administration testing lab that the ignition interlock model for which certification is being sought meets or exceeds the current National Highway Traffic Safety Administration's model specifications. Included with the certification report should be the name and location of the testing laboratory, the address and ~~phone~~ telephone number of the testing laboratory, a description of the tests performed, copies of the data and results of the testing procedures, and the names and qualifications of the individuals performing the tests.

E. If a device is submitted for approval by a service provider other than the manufacturer, the submitting party shall submit a notarized affidavit from the manufacturer of the device certifying that the submitting party is an authorized manufacturer's representative.

F. Except where otherwise required in this chapter, all ignition interlock devices shall meet the model specifications for Breath Alcohol Ignition Interlock Devices as set forth in the most current model specifications published in the Federal Register by the National Highway Traffic Safety Administration and operate reliably over the range of motor vehicle environments or motor vehicle manufacturing standards. At a minimum, the following specifications shall be met:

1. The ignition interlock device shall work accurately and reliably in an unsupervised environment, at minimal inconvenience to others, and without impeding the safe operation of the motor vehicle.
2. The ignition interlock device shall be able to analyze a specimen of alveolar breath for alcohol concentration, correlate accurately with established measures of blood alcohol concentration, and be calibrated according to the manufacturer's specifications.
3. The ignition interlock device shall use an electrochemical fuel cell that reacts to and measures ethanol.
4. The ignition interlock device shall indicate when a 1.5 L breath sample has been collected and shall indicate this by audible or visual means. The commission may authorize service providers to adjust the breath volume requirement to as low as 1.0 L upon receipt of documentation from a licensed physician verifying the existence of an applicable medical condition. The physician's documentation shall be submitted in a format approved by the commission.
5. The ignition interlock device shall detect and record a BAC that reaches the fail point for all completed breath samples.
6. The results of the test shall be noted through the use of green, yellow, and red signals or similar pass/fail indicators. No digital blood alcohol concentration shall be indicated to the offender.
7. The ignition interlock device shall lock out an offender when a BAC reaches the fail point.
8. The ignition interlock device shall have the ability to continuously flash the vehicle's lights, or other light source approved by the commission, while simultaneously activating the vehicle's horn whenever a required rolling retest is missed or failed.
9. The ignition interlock device shall have the ability to perform a permanent lockout if the offender fails to appear for a scheduled monitoring appointment within 30 days of the later of the installation date or most recent calibration date. The service provider shall provide a code, smart key, or other similar unlock feature that has been approved by the commission to offenders whose interlock is in

a permanent lockout status. The duration of the time period that the interlock is unlocked shall not be more than or less than three hours unless otherwise approved by the commission. The code shall only unlock the interlock device and shall not disable other interlock features. Interlock service providers shall not provide an ignition interlock code that disables the ignition interlock features to persons without first obtaining authorization from the commission.

10. The ignition interlock device shall automatically purge alcohol before allowing subsequent analyses.

11. The ignition interlock device shall issue a warning of an impending permanent lockout.

12. The ignition interlock device shall be capable of random retesting and timed retesting.

13. The ignition interlock device shall warn the offender of upcoming service appointments for at least five days prior to the appointment. Should the offender fail to appear, the device shall lock out on the 31st day after the later of the installation date or previous calibration date, and the motor vehicle shall not be operable until the service provider has reset the device.

14. The internal memory of the ignition interlock device shall be capable of recording and storing a minimum of 15,000 interlock events and shall enter a service reminder if the memory reaches 90% of capacity.

15. The ignition interlock device shall be designed and installed in a manner as to minimize opportunities for tampering, alteration, bypass, or circumvention. The ignition interlock device shall not spontaneously bypass the ignition system or starter relay, nor shall it be able to be made operational by a mechanical means of providing air to simulate alveolar breath. Bogus breath anti-circumvention features used to pass laboratory testing of the ignition interlock device shall be turned on. In addition, service providers shall connect the ignition interlock device to a constant and uninterrupted power source to further prevent an opportunity to circumvent the system.

16. The ignition interlock device shall be capable of recording and providing evidence of actual or attempted tampering, alteration, bypass, or circumvention.

17. The ignition interlock device shall operate accurately and reliably at temperatures between -40°C and 85°C.

18. The ignition interlock device shall operate up to altitudes of 2.5 km above sea level.

19. The readings of the ignition interlock device shall not be affected by humidity, dust, electromagnetic interference, smoke, exhaust fumes, food substance, or normal automobile vibration when used in accordance with the manufacturer's instructions.

20. The operation of the ignition interlock device shall not be affected by normal fluctuations of power source voltage.

21. The ignition interlock shall be installed with a fully functional camera that is equipped to record the date, time, and photo of the vehicle's driver seat upon:

- a. The delivery of an accepted breath sample to the ignition interlock device;
- b. A missed retest on the ignition interlock device; and
- c. An initial engine start of the motor vehicle, within a timeframe established by the commission.

This requirement shall not pertain to motorcycles and mopeds. In addition, service providers are required to present a reference photo of the offender to confirm the offender's identity.

G. All ignition interlock devices that have been approved by the commission shall have affixed to the ignition interlock handset a warning label with the following language: "Any person tampering with or attempting to circumvent this ignition interlock system shall be guilty of a Class 1 misdemeanor and, upon conviction, be subject to a fine or incarceration or both." The cost and supply of the warning labels to be affixed to the ignition interlock devices shall be borne by the manufacturer or service provider. The manufacturer or service provider shall submit to the commission a prototype of the warning label for approval.

H. For initial startup of the motor vehicle:

1. The ignition interlock device shall enable the starter relay after the successful completion of a breath alcohol test.
2. The device shall allow an operator to take up to two minutes after the starter relay is enabled to start the engine.
3. The ignition interlock device shall permit a free restart.
4. If the initial test results in a lockout due to the offender's BAC level, the ignition interlock device shall not allow an additional attempt for five minutes.
5. If the offender's BAC still reaches the fail point on the first retest, the machine shall lock out for an

additional 10 minutes and shall do so thereafter for each subsequent failed ~~retests~~ retest. A violation reset message shall instruct the offender to return the ignition interlock device to the service provider for servicing within five days.

6. If the ignition interlock device is not reset within five days, a permanent lockout shall occur.

I. A rolling retest feature is required for all ignition interlock devices. For rolling retests:

1. An ignition interlock device shall require a rolling retest randomly within 10 to 15 minutes after the start of the motor vehicle and randomly thereafter at least once every 60 minutes as long as the motor vehicle is in operation.

2. The ignition interlock device shall produce a visual and audible signal of the need to produce a breath sample for the rolling retest and shall be modified as necessary to accommodate operators who are hearing impaired. The offender shall have 15 minutes to provide the required rolling retest breath sample.

3. A free restart shall not apply if the ignition interlock device was awaiting a rolling retest that was not delivered.

4. A deep lung breath sample at or above the fail point or a failure to provide a rolling retest deep lung breath sample within the required time shall activate the motor vehicle's horn and cause the motor vehicle's headlights, parking lights, emergency lights, or other light source approved by the commission to flash until the engine is shut off by the offender or a passing breath test is provided.

5. Once the vehicle has been turned off, all prestart requirements shall become applicable.

6. The violations reset message shall instruct the offender to return the ignition interlock device to the service provider for servicing within five days.

7. If the ignition interlock device is not reset within five days, a permanent lockout will occur.

J. Additional technical specifications for the operation and installation of the ignition interlock device may be described in the contract between the commission and the service provider.

K. The vendor shall notify the commission in writing if the approval or certification of a device that is approved or has been submitted for approval for use in Virginia is or ever has been denied, withdrawn, suspended, or revoked in another state, whether the action occurred before or after approval in Virginia. This notification shall be made in a timely manner, not to exceed 15 days after the vendor has received

notice of the denial, withdrawal, suspension, or revocation of approval or certification of the device, whether or not the action will be or has been appealed.

**24VAC35-60-80. Ignition interlock device installation.**

A. No offender who has a case pending in the court system shall have an interlock installed in Virginia unless enrolled in and monitored by the local ASAP program in the area where the case originated. Offenders subject to a ~~DMV~~ an ignition interlock requirement of the department shall not have an interlock installed in Virginia unless first authorized by the local ASAP. Prior to installation of the device, the vendor must receive written or electronic authorization from the local ASAP. This section also applies to out-of-state offenders who have a Virginia ignition interlock requirement. This enables the commission to maintain consistency in policy and use of ignition interlock devices in ~~the Commonwealth of~~ Virginia and allows for a consistent pattern of instruction to the service provider.

B. The ignition interlock device shall be installed by a commission-approved manufacturer or authorized service provider within 30 days of the date of the court order; ~~if not~~ otherwise, the service provider shall notify the local ASAP. Once the ignition interlock has been installed, the service provider shall send an authorized installation report to the local ASAP, via a method established by the commission, documenting that the ignition interlock device has been installed. Once verification of an authorized installation has been received by the local ASAP, ~~DMV~~ the department shall be notified by the local ASAP that the offender has successfully installed the interlock device.

C. All agreements between the service provider and the offender shall be in the form of a contract and signed by the service provider and the offender. Copies of the written contract shall be retained by the service provider with a copy given to the offender.

D. Prior to installation of the ignition interlock device, offenders shall provide to the service provider:

1. Photo identification. If no photo identification is available at the time of installation, other adequate proof of identification may be accepted to avoid delay of the installation. However, photo identification must be presented prior to the first calibration appointment;
2. A copy of the registration or title containing the vehicle identification number (VIN) of all motor vehicles owned or routinely driven by the offender and a statement disclosing the names of all other operators of the motor vehicles owned or driven by the offender;
3. A notarized affidavit, approved by the commission, from the registered owner of the vehicle

granting permission to install the device if the car is not registered to the offender. If the owner is present at installation, provides valid identification, and signs the consent to install form in the service provider technician's presence, notarization of the consent to install form is not required; and

4. Written authorization from the commission if the air volume requirement, blow pressure, or anti-circumvention features of the ignition interlock device are to be lowered or disabled in order to compensate for an offender's diminished lung capacity, when applicable.

E. Under no circumstances shall an offender or anyone accompanying the offender be permitted to observe installation of the ignition interlock device.

F. The service provider shall inspect all motor vehicles prior to installation of the device to ensure that ~~they are~~ the vehicle is in acceptable mechanical and electrical condition. Under no circumstances shall staff of the authorized service provider install a device until ~~and unless~~ the motor vehicle is approved following the inspection. A commission-approved pre-inspection checklist documenting the vehicle's condition at installation shall be completed and placed in the offender's file.

G. The installation shall include tamper-resistant features at all ignition interlock electrical connections so as to make evident all attempts to circumvent or otherwise alter the normal functioning of the ignition interlock. At a minimum, the service provider shall ensure that the vehicle starter wire connected to the ignition interlock is secured with uniquely identifiable heat shrink tubing or its equivalent and that all connected wires are wrapped with uniquely labeled service provider tape.

H. An oral, written, or video orientation to the ignition interlock device shall be developed and delivered by the service provider to the offender and other persons who may drive the motor vehicle, including information on the use and maintenance of the device as well as all service ~~center~~ facility locations, and procedures for regular and emergency servicing. A demonstration interlock will be available at the installation site for use in the training of customers.

I. If, during the installation, the offender fails to pass the initial breath test, the installation shall be halted and the local ASAP notified.

J. The manufacturer or service provider shall maintain a toll-free 24-hour emergency phone service that may be used to request assistance in the event of failure of the ignition interlock device or motor vehicle problems related to operation of the ignition interlock device. The assistance provided by the authorized service provider shall include technical information and aid in obtaining towing or roadside service. The

expense of towing and roadside service shall be borne by the offender unless it is determined by the commission that the ignition interlock device failed through no fault of the offender. If this is the case, the manufacturer or service provider shall be responsible for applicable expenses. The ignition interlock device shall be made functional within 48 hours of the call for assistance or the ignition interlock device shall be replaced.

K. At the time of device installation, a service provider may charge an installation fee. The maximum permissible cost for installation shall be set by the commission, and service providers shall not be permitted to exceed the maximum fee established by the commission. A portion of these fees shall include costs for offender indigency funds. In addition to the maximum fee permitted, service providers may collect applicable taxes and charge for optional insurance to cover device theft or accidental damage. Optional insurance shall be offered by the service provider, and a written copy of the insurance policy ~~stating~~ clearly stating the applicable coverages, coverage amounts, conditions, and exclusions shall be given to offenders who purchase the insurance. When the ignition interlock is installed on a motorcycle or moped, service providers may require offenders to provide a saddle bag or similar waterproof container in which the device components may be stored as a condition of eligibility for the optional insurance.

L. The manufacturer or the service provider shall provide service to those offenders who are eligible for a reduction in fees based upon a declaration of indigence by the court and approval by the commission.

M. No later than the first service appointment, the offender shall provide to the service provider a statement from the licensed drivers who will be driving the offender's motor vehicle acknowledging their understanding of the requirements of the use of the ignition interlock device.

N. An ignition interlock device installed and assigned to one offender shall not be assigned simultaneously to any additional offender for the purpose of attempting to comply with a Virginia ignition interlock requirement.

O. The ignition interlock device shall not be removed from any offender's vehicle for the sole purpose of permitting an offender to transfer to another interlock service provider without written permission from the commission. If the offender's reason to transfer to another interlock service provider is based upon a malfunctioning interlock device or a legitimate customer service issue, the commission shall not unreasonably deny permission and shall authorize the transfer within five business days of all relevant information being received.

**24VAC35-60-90. Calibration and monitoring visit.**

A. Only calibration units (i) found on the current National Highway Traffic Safety Administration's Conforming Products List of Calibrating Units for Breath Alcohol Testers or (ii) approved by the commission shall be used by the service provider to calibrate ignition interlock devices.

B. The service provider shall:

1. Provide service and monitoring of the ignition interlock device at least every 30 days. All ignition interlock calibrations shall occur at a service provider interlock service facility unless otherwise approved by the commission;
2. Calibrate the ignition interlock device at each service appointment using a dry gas or wet bath reference sample. The service provider shall ensure that dry gas and wet bath reference values are adjusted in a manner approved by the commission;
3. Calibrate the ignition interlock device for accuracy by using a wet bath simulator or dry gas alcohol standard with an alcohol reference value between .030 and .050 g/210L;
4. Expel a three-second purge from the wet bath simulator or dry gas standard prior to introducing the alcohol reference sample into the ignition interlock device;
5. Perform an accuracy check that will consist of two consecutive reference checks with the result of each individual check being within plus or minus 10% or 0.003, whichever is ~~smaller~~ greater, of the alcohol reference value introduced into the ignition interlock device. The time period between the first and second consecutive accuracy check shall not exceed five minutes;
6. House and use wet bath simulators in environmentally stable, temperature controlled settings. Wet bath simulators shall contain mercury-in-glass thermometers or digital thermometers. The thermometers shall read 34°C, plus or minus 0.2°C, during analysis and be certified annually using a National Institute of Standards and Technology traceable digital reference thermometer. In addition, the service provider shall use alcohol reference solutions prepared and tested in a laboratory with reference values traceable to the National Institute of Standards and Technology. The 500-ml bottles containing simulator solution shall be ~~tamper-proof~~ tamper-proof and labeled with the lot or batch number, value of the reference sample in g/210L, and date of preparation or expiration. Alcohol reference solutions must be used prior to expiration and within one year from the date of preparation. In addition, wet bath simulator solutions shall be replaced every 30 days or prior

to every 30th test, whichever occurs first. A sticker shall be placed on the wet bath simulator indicating the date of the most recent simulator solution replacement. In addition, a written logbook or electronic database recording the date and result of each simulator test shall be maintained on site;

7. Store dry gas alcohol standard tanks in a manner consistent with the gas manufacturer's specifications. The dry gas tanks shall have a label attached that contains the components and concentration of the reference value of the gas, an expiration date that shall not be longer than three years from the date of preparation, and the lot or batch number. Dry gas alcohol standards must be certified to a known reference value and be traceable to the National Institute of Standards and Technology. The reference value shall be adjusted for changes in elevation and pressure. Interlock service vendors shall possess a certificate of analysis from the dry gas standard manufacturer. Dry gas tanks shall be secured in a manner as to prevent harm to the public;

8. Retrieve data from the ignition interlock device data log for the previous period and electronically submit it to the local ASAP within 24 hours of calibration;

9. Record the odometer reading of the vehicle;

10. Check the ignition interlock device and wiring for signs of circumvention or tampering and electronically report violations to local ASAP within the required timeframe established by the commission;

11. Collect the monthly monitoring fee from the offender. If an offender who has not been declared to be indigent by the court is three or more months delinquent in payments, the service provider may, in its discretion, refuse to provide calibration services, but shall not remove the ignition interlock device without authorization from the commission. Offenders with an outstanding balance with any Virginia-approved ignition interlock service provider shall not be permitted to install an interlock device with another ignition interlock service provider;

12. Verify that the offender has a photo identification prior to calibrating the ignition interlock device if photo identification was not already presented at the time of installation; and

13. Conform to other calibration requirements established by the commission, as applicable.

C. All malfunctions of the ignition interlock device shall be repaired or the ignition interlock device replaced by the service provider within 48 hours at no additional expense to the offender. If it is shown that

the malfunction is due to damage to the device as a result of mistreatment or improper use, the offender shall be responsible for applicable repair fees.

D. A certified technician shall be available at the service ~~center~~ facility during specified hours to answer questions and to deal with mechanical concerns that may arise with a motor vehicle as a result of the ignition interlock device.

E. The ignition interlock device shall record, at a minimum, the following data:

1. The time and date of failed breath tests;
2. The time and date of passed breath tests;
3. The breath alcohol level of all tests; and
4. The time and date of attempts to tamper with or circumvent the ignition interlock device.

F. At the time of device calibration, a service provider may charge a monthly monitoring fee. The maximum permissible cost for monitoring and calibration shall be set by the commission through the ignition interlock regulations, and service providers shall not be permitted to exceed the maximum fee established by the commission. A portion of these fees shall include costs for administrative support and offender indigency funds. In addition to the maximum fee permitted, service providers may collect applicable taxes and charge for optional insurance to cover device theft and accidental damage. Fees for the first monthly monitoring and calibration visit will be collected from the user in advance at the time of installation and monthly thereafter when services are rendered.

**24VAC35-60-100. Ignition interlock device removal.**

A. Prior to removal of the ignition interlock device, the service provider must receive written or electronic authorization from the local ASAP. This requirement also applies to offenders with a Virginia ignition interlock requirement who are receiving interlock services from a service provider in another state.

B. Offenders may not have their ignition interlock device removed or replaced by another manufacturer without written or electronic authorization from the commission. Whenever removal of an ignition interlock device is approved by the commission for the purpose of changing service providers and the authorized removal is a result of a determination that the initial service provider failed to provide a level of service meeting contract requirements, ~~the ignition interlock regulations~~ this chapter, or the Code of Virginia, the original service provider shall bear the costs associated with installation of the device by the new service

provider.

C. Once the interlock has been removed, the service provider shall send an authorized removal report to the local ASAP via a method established by the commission documenting that the ignition interlock device has been removed. Once ~~the local ASAP has received~~ verification of an authorized removal ~~has been received by~~, the local ASAP, ~~DMV~~ shall ~~be notified~~ notify the department that the offender has successfully completed the interlock requirements.

D. Whenever an ignition interlock device is removed, all components of the motor vehicle altered by the installation or servicing of the ignition interlock device shall be restored to their original, preinstallation condition and removed in a manner so as not to impair the continued safe operation of the vehicle. All severed wires shall be permanently reconnected (soldered) and properly insulated. A commission-approved, post-inspection checklist of the vehicle shall be completed after removal of the device, documenting ~~that whether~~ the vehicle ~~or vehicles did or did not suffer~~ suffered damage due to interlock services provided by the service provider. A copy of the post-inspection checklist shall be placed in the offender's file.

E. No fee shall be charged to the offender for removal of the ignition interlock device.

F. No offender or person accompanying the offender shall be permitted to observe the removal of the ignition interlock device.

**24VAC35-60-110. Records and reporting.**

A. The service provider shall be subject to announced or unannounced site reviews for the purpose of inspecting the facilities and offender records. Upon request, access to all service provider locations, records, and financial information shall be provided to the commission for the purpose of verifying compliance with state law, commission regulations, and the service provider agreement.

B. In accordance with federal confidentiality guidelines, all personal and medical information provided to the service provider regarding offenders shall be kept confidential. If the information is temporarily held at the offender's service ~~center~~ facility, it shall be stored in a locked filing cabinet when unattended by a service provider employee.

C. After installing an interlock, the service provider shall provide the local ASAP with an installation report, within 24 hours, that includes:

1. The name, address, and telephone number of the offender;

2. The registration information of the motor vehicle; and
3. The serial number of the installed ignition interlock device and camera.

D. After performing a monitoring and calibration check, the service provider shall submit to the local ASAP, within 24 hours, all data generated to include:

1. Name of the offender whose device was monitored;
2. Name, address, and telephone number of the monitoring official;
3. Date of monitoring and calibration;
4. Motor vehicle make, model, year, identification number, and odometer reading;
5. Number of miles driven during the monitoring period;
6. Make, model, and serial number of the ignition interlock device and camera;
7. A ~~change-out~~ change-out of the device (handset or control box) and reason for the ~~change-out~~ change-out;
8. Data indicating that the offender has attempted to start or drive the motor vehicle with a positive BAC at or above the fail point;
9. Attempts to alter, tamper with, circumvent, bypass, or otherwise remove the device;
10. Noncompliance with conditions of the local ASAP or interlock program;
11. Offender concerns;
12. Charges incurred for the monitoring visit; and
13. Date of next scheduled monitoring visit.

E. In addition, the service provider shall have available monthly reports detailing:

1. Installations during the period covered;
2. Calibrations performed during the period, by date and offender name, detailing any unit replacements made during the monitoring period;
3. Datalogger information from all ignition interlock devices;
4. Evidence of misuse, abuse, or attempts to tamper with the ignition interlock device;
5. Device failure due to material defect or improper installation; and

6. A summary of complaints received and corrective action taken.

F. The service provider shall be responsible for purchasing and providing necessary computer hardware and software to convey all data and information requested by the commission if the equipment is not already present at the commission office or the local ASAP.

G. Accurate reports shall be submitted to the local ASAP in the format specified by the commission.

H. The service provider shall provide a copy of the most recent "ASAP Ignition Interlock Agreement" to each offender at the interlock installation appointment and shall require the offender to read and sign the agreement.

**24VAC35-60-120. General service provider requirements.**

Interlock service providers that are approved to perform ignition interlock services in the ~~Commonwealth~~ of Virginia shall:

1. Abide by all commission memorandums, directives, contract terms, and regulations pertaining to the statewide ignition interlock program unless prohibited by state law.
2. Resolve offender, court, ~~DMV department~~, local ASAP, commission, and other stakeholder complaints as directed by the commission.
3. Install all local ASAP authorized ignition interlock installations within the time parameters set forth by the commission. In situations where an interlock service facility ~~or facilities become~~ becomes inoperable due to a large scale weather event or some other verified unforeseen circumstances, the service provider shall contact the commission within 24 hours with an action plan to mitigate the impact to customer service.
4. Resolve ignition interlock service facility compliance issues as directed by the commission.
5. Obtain approval from the commission before disseminating any offender training or advertising materials used in association with the Virginia interlock program.
6. Make modifications to the service provider company website that is used to review monthly calibration reports, upon reasonable request by the commission. Reasonable requests include, ~~but are not limited to~~, changes due to language that is confusing, misleading, offensive, or inaccurate; changes required due to updated technology; changes to the Code of Virginia or the ignition interlock regulations; changes in workload; or changes in product enhancements.

7. Assume full liability for action taken or not taken by an local ASAP or the commission due to an inaccurate or misleading report, whether electronic or hard copy, provided by the service provider.
8. Be accountable for Virginia offenders with ignition interlock devices installed by its company in another state and ensure that all Virginia interlock processes, regulations, request for proposal terms, contract terms, and commission requirements are met unless prohibited by state law.
9. Notify the commission within 15 days of disciplinary action received from a state where the service provider conducts or has conducted ignition interlock business. This notification shall include the reason for the disciplinary action. This requirement applies regardless of the existence of an appeal.
10. Provide information technology assistance and training, upon reasonable request, to the commission.
11. Report all changes to the ignition interlock device software or firmware, whether temporary or permanent, to the commission within 30 days of release in ~~the Commonwealth of~~ Virginia.
12. In the event of reported vehicle damage, alleged to be due to the service provider's ignition interlock device or workmanship:
  - a. Give immediate notice to the commission once becoming aware of the alleged damage;
  - b. Refrain from modifying or removing the ignition interlock device or its wiring until approved by the commission;
  - c. Exhibit the damaged property to the commission upon request; and
  - d. Provide applicable records and documents to the commission upon request, and permit copies to be made.

The commission, in its discretion, reserves the right to hire a qualified, independent expert to examine the vehicle and provide a report that includes an opinion as to the proximate cause of the damage and a repair or replacement estimate. In the event that the damage is determined to be attributable to the service provider's ignition interlock device or workmanship, the ignition interlock service provider shall indemnify the offender for the costs as estimated by the independent expert. In addition, the service provider shall pay for the reasonable cost of the independent expert's report.

**24VAC35-60-130. Service provider technician certification.**

A. Service provider state directors and technicians are required to possess a Virginia Ignition Interlock Certification Letter to perform ignition interlock services in ~~the Commonwealth of Virginia~~. Newly hired technicians, however, may perform ignition interlock services under the direct supervision of a certified technician for training purposes for up to 90 days prior to obtaining a Virginia Ignition Interlock Certification Letter. The executive director may, in their discretion, grant a written extension of the 90-day period for good cause shown. In order to apply for a certification letter, service providers shall submit a completed application to the commission for approval of newly hired technicians and state directors. ~~If approved by the commission, this application process may be waived for technicians and state directors providing interlock services in the Commonwealth of Virginia prior to June 30, 2016.~~ The completed application shall include submission of:

1. ~~A completed applicant form provided by the commission~~ An official written request to certify a technician or state director;
2. A complete local and national criminal history check;
3. A complete driver's record; and
4. Documentation issued by the commission of successful completion of the Virginia Ignition Interlock Certification Exam.

Failure to submit a completed application will result in disqualification from consideration for a Virginia Ignition Interlock Certification Letter by the commission to perform ignition interlock services in ~~the Commonwealth of Virginia~~.

B. Applicants shall be required to complete a Virginia Ignition Interlock Certification Exam. Successful completion of the exam requires a score of 80% or higher. Applicants who fail to successfully complete the state certification exam on the first attempt shall be allowed a second opportunity to successfully complete the exam. Applicants who fail to successfully complete the state certification exam on the second attempt shall not be allowed to reapply to provide ignition interlock services for ~~the Commonwealth of Virginia~~ for six months from the date of the second failed exam. Service providers shall be required to pay an administrative fee, as provided in 24VAC35-60-50 B 3, to the commission for all second and subsequent attempts to successfully complete the state certification exam. Applicants who successfully pass the state certification exam will receive documentation of successful completion from the commission that shall be

submitted with the application for a Virginia Ignition Interlock Certification Letter to perform ignition interlock services in ~~the Commonwealth of Virginia~~.

C. The commission may deny, revoke, suspend, or terminate a Virginia Ignition Interlock Certification Letter for a service provider technician or state director for any of the following reasons:

1. Having been convicted of a felony;
2. Having been convicted of a misdemeanor potentially punishable by confinement;
3. Committing an unethical, deceptive, or dishonest act that negatively impacts the integrity of the ignition interlock program;
4. Failing to demonstrate the ability to consistently comply with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level;
5. Failing to demonstrate sufficient knowledge or skill required to perform ignition interlock services in ~~the Commonwealth of Virginia~~;
6. Making a material misstatement or omission in an application; ~~or~~
7. Defrauding any client, service provider, or other person or entity in the conduct of the licensee's business; or
8. Having previously demonstrated conduct, performance deficiencies, or professional misconduct while employed by or affiliated with another employer, contractor, agency, or service provider that reasonably indicates the applicant may be unable or unwilling to perform the duties required by certification in a competent, ethical, or compliant manner. In making such determination, the executive director may consider, but is not limited to considering, documented disciplinary actions, substantiated complaints, termination for cause, repeated performance deficiencies, violations of professional standards, or other credible evidence of conduct that adversely reflects on the applicant's reliability, integrity, or ability to comply with applicable laws, regulations, or program requirements.

A service provider technician or state director whose Virginia Ignition Interlock Certification Letter has been denied, revoked, suspended or terminated may request judicial administrative review by the agency in accordance with the ~~provisions of the~~ Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) by requesting an agency hearing within 30 days of notification of such revocation or suspension.

Such request shall be in writing and directed to the executive director. In the event that the decision to suspend or revoke the Virginia Ignition Interlock Certification Letter of a service provider's technician or state director is upheld, the technician or state director shall not perform interlock services in the Commonwealth of Virginia for the entire suspension period, or in the case of a revocation or termination, on a permanent basis. This prohibition includes any period during which the denial, suspension, revocation, or termination is being contested. ~~The service provider is required to return the Virginia Ignition Interlock Certification Letter to the commission within 15 days of the date that the certification was suspended, revoked, or terminated, by the commission.~~

D. Once the completed application has been approved by the commission and all other qualifications have been met by the applicant, a Virginia Ignition Interlock Certification Letter to perform ignition interlock services in the Commonwealth of Virginia shall be issued to the applicant by the commission. The certification letter shall contain the effective date of the letter and a certification number specific to the applicant. The certification letter will be valid for a time period specified by the commission unless otherwise suspended, revoked, or terminated but for no longer than the service provider contract end date. In the event that an applicant is not approved for a Virginia Ignition Interlock Certification Letter to perform interlock services in the Commonwealth of Virginia, the commission will notify the service provider in writing within 10 days of the determination. The Virginia Ignition Interlock Certification Letter is subject to review by the commission at its discretion during the course of the certification period.

E. An application to renew a Virginia Ignition Interlock Certification Letter for an ignition interlock technician or state director shall be submitted 30 days prior to the expiration date printed on the current certification letter. A technician or state director who has had his state certification revoked or terminated shall be ineligible to reapply for a Virginia Ignition Interlock Certification Letter unless otherwise approved by the commission.

F. ~~Service providers are required to surrender Virginia Ignition Interlock Certification Letters for technicians and state directors who are~~ shall provide notification to the commission within 15 days when a technician or state director is no longer employed with their company. ~~The surrendered certification letter shall be sent to the commission within 15 days of the date that the technician or state director is no longer employed with the service provider.~~

G. In addition to the successful completion of the Virginia Ignition Interlock Certification Exam required for application, the commission may order that a technician or state director performing ignition interlock

services in ~~the Commonwealth of~~ Virginia review requirements and retake the state certification exam to demonstrate that the technician or state director possesses the knowledge required to perform ignition interlock services in ~~the Commonwealth of~~ Virginia.

FORMS (24VAC35-60)

VASAP Breath Reduction Form (rev. 9/2015)

~~VASAP Interlock Service Provider Applicant Form (rev. 9/2015)~~

Consent to Install Form (eff. 7/2026)

Ignition Interlock Participation Agreement (eff. 7/2026)

**Approval  
of  
FY2026-2027  
ASAP Budgets**

## **Local Alcohol Safety Action Program Budget Summary**

The following summary provides an overview of the proposed budgets for the local Alcohol Safety Action Programs. The proposed budgets present no concerns, with the exception of the two programs noted separately, and any increases or unique line items have been identified and clarified to ensure transparency and alignment with program needs.

### **Alexandria**

The budget reflects a \$150,000 contribution from the city of Alexandria and a \$50,000 contribution from the state office for the upcoming fiscal year to further stabilize the program since transitioning to the city of Alexandria.

### **Arlington**

The \$105,464 listed under Benefits as “other” is for language pay, retirement, location pay, and overtime. The fiscal agent is projected to contribute \$610,363.50 to the program FY2027 and was projected to contribute \$559,901 in the prior year. The program also expects to receive \$40,800 in revenues through a Falls Church disbursement, state disbursements, and debt collection.

### **Bull Run**

The program has increased salaries to be more competitive with pay in their area and increase retention levels. The \$11,000 listed under Capital Expenses as “other” is for the program’s information technology contract. The \$1,000 under public information and education is for events and materials. The \$2,000 under Contractual Services is for shredding services. The state office did submit a grant through the Department of Highway Safety Office at DMV for funds to bridge the program until January 1, 2028 when the new law’s provision on municipality support takes effect. We hope to know if the grant is awarded by August, 2026.

### **Central Virginia**

The \$24,725.14 listed under Benefits as “other” is for health insurance credits and employer retirement. The \$1,000 under Supplies and Materials as “other” is for computer operating supplies.

### **Chesapeake Bay**

The \$21,000 listed under Benefits as “other” is for a 401K match. The program is saving \$20,000 in office rent as the office at Eastern Shore is moving into the Accomack courthouse. The \$20,000 in savings is being used for security upgrades at the Virginia Beach location.

### **Court Community Corrections**

The \$69,100 listed under Benefits as “other” is for VRS retirement and paid leave buyback for full time employees of \$6,600. The \$700 under Management Information and Professional Services as “other” is for fiscal agent fees and Shred-it costs. The \$19,000 under Other Administrative Services listed as “other” is for DMV fees for driver improvement. The \$1,400 under Insurance listed as “other” is for cyber insurance. The \$2,000 under Contractual Services listed as “other” is for sign language interpreters if needed.

### **Dan River**

There are substantial increases for staff other than the director to bring salaries within a competitive range for the area.

### **District Nine**

The \$33,000 listed under Benefits as “other” is retirement contributions. The \$3,000 listed under Administrative Services as “other” is for maintenance fees. The \$1,450 listed under Insurance as “other” is for cyber liability.

**Fairfax**

The \$300,000 listed under Benefits as "other" is for employee retirement. The \$500 under Management Information & Professional Services listed as "other" is for management professional services. The \$2,000 under Other Administrative Services as "other" is for other operating expenses. The \$1,500 under Computer Operating Supplies listed as "other" is for computer operating supplies. The \$1,500 under Public Information and Education listed as "other" is for award activities. The \$4,000 under Contractual Services listed as "other" is for translational and interpretation services. The fiscal agent is projected to contribute \$1,327,763 to the program FY2027. The program projected \$1,166,896 in fiscal agent funding the year prior.

**James River**

The \$480 listed under Contractual Services as "other" is for shredding services.

**John Tyler**

The \$740,000 listed under Benefits as "other" is for retirement. The \$1,200 listed under "Education Services" as "other" is for instructors. The \$6,000 listed under Capital Expenses as "other" is for HOA and property tax.

The budget also includes a separate Valley budget as the Valley program has been absorbed into the John Tyler program. This separate budget enables John Tyler ASAP to separate out the costs for Valley expenses for the first three years. There is a \$50,000 state contribution to cover projected Valley expense shortfalls for FY27. Any shortfalls more than \$50,000 can be absorbed by the program in FY2027.

**Mount Rogers**

The \$20,000 listed under Benefits as "other" is for VRS. The \$1,840 listed under Education Services as "other" is for DMV fees. The \$10,000 listed under Capital Expenses as "other" are for office security upgrades.

**New River Valley**

The large increase for certain case manager positions is due to promotions from case manager assistant to case manager. The \$55,000 listed under Benefits as "other" is for VRS, medical match, and disability. The \$900 listed under Insurance as "other" is for worker's compensation and community service liability insurance. The \$3,200 listed under Capital Expenses as "other" are for snow removal, lawn care, and handyman services. The \$1,500 listed under Supplies & Materials as "other" pertains to security measure costs. The \$1,600 listed under Contractual Services as "other" is for leasing of the program's copy machine.

**Peninsula**

The program is projected to receive \$114,000 in municipality financial support for FY2027. They projected \$129,000 the year prior. The \$8,000 listed under Benefits as "other" is for retirement. The \$50,000 listed under Capital Expenses as "other" is for repairs to the parking lot and building.

**Rappahannock**

The program has increased salaries to be more competitive with pay in their area and increase retention levels. The \$12,000 listed under Benefits as "other" is for retirement.

**Rockingham-Harrisonburg**

The program is projected to receive \$24,000 in municipality financial support in FY2027. They projected to receive \$30,924 the year prior. The \$10,421 listed under Benefits as "other" is for retirement. The \$2,100 listed under "Other Administrative Services" as "other" is for document destruction and driver improvement DMV fees.

**Southside**

The program is projected to receive \$53,000 in municipality financial support for FY2027. They projected to receive \$45,500 the year prior. The \$57,929 listed under Benefits as "other" is for retirement and disability insurance. The \$1,200 listed under Education Services as "other" is for payment to DMV for in-person driver improvement completions. The \$300 listed under Insurance as "other" is for community service insurance. The \$2,750 listed under Capital Expenses as "other" is for parking lot and general office maintenance.

**Southwest Virginia**

The program projects \$5000 in municipality financial support for FY2027. They projected \$38,459 the year prior. The \$7,250 listed under Benefits as "other" is for retirement. The \$6,000 listed under Education Services as "other" is for instructors.

**Tri-River**

The \$7,000 listed under Benefits as "other" is for retirement.

**\*\* The budget does a comparison of salary from this year to last year which is reflected in a percentage increase or decrease for each employee position. Positions reflecting a 100% increase are for newly created positions which did not exist the year prior.**

## **Local Alcohol Safety Action Program Budget Concerns**

The following summary provides an overview of the proposed budgets for local Alcohol Safety Action Programs that reflect concerns.

### **Old Dominion**

The Old Dominion ASAP is short \$43,000 for FY2027's budget cycle. The budget was approved in October, 2025, and since that time, the program is projecting they will also be approximately \$43,000 short for the current FY. If this shortage is not resolved by the end of FY2026, the \$43,000 projected to offset the shortage in FY2027 will not be available. The program director at the time advised the fiscal agent would cut a position for FY2027 to offset the shortage if needed.

Although the program receives funding from some jurisdictions they serve, they do not receive it from all. The program is projecting to receive \$57,300 in municipality financial support for FY2027 and projected \$106,410 the year prior. The state office distributed \$43,237 to the program in FY2026 and \$59,329 in FY2025. The \$58,695 listed under Benefits as "other" is for VRS and merit increases.

### **Southeastern**

The program reports that projections have changed to the downside since the board approved the current budget. The financial situation is to the point the ASAP director notified the state office in late April that the program may not be able to meet payroll obligations in May. The state office did submit a grant through the Department of Highway Safety at DMV for funds to bridge the program until January 1, 2028 when the new law's provision on municipality support takes effect. We hope to know if the grant is awarded by August, 2026. In addition, the state office distributed \$46,396 to the program in FY2026 and \$55,689 in FY2025. The \$10,000 listed under Benefits as "other" is for retirement.

## FY 2026-2027 Annual Budget

ASAP	Total Revenue	Total Expenses	Budget Surplus
Alexandria	409,370	322,064	87,307
Arlington	869,364	869,364	0
Bull Run	980,328	980,328	0
Central Virginia	393,600	370,410	23,190
Chesapeake Bay	1,222,015	1,101,148	120,868
Court Community Corrections	668,325	667,882	443
Dan River	286,500	286,500	0
Distrit Nine	284,645	282,050	2,595
Fairfax	2,014,866	1,950,844	64,022
James River	291,426	291,426	0
John Tyler	1,769,675	1,643,311	126,364
-Valley	165,355	169,958	-4,603
Mount Rogers	317,450	313,440	4,010
New River Valley	681,000	680,410	590
Old Dominion	624,417	624,417	0
Peninsula	921,750	902,054	19,696
Rappahannock Area	865,700	689,590	176,110
Rockingham/Harrisonburg	373,905	373,768	137
Southeastern Virginia	583,083	583,085	-2
Southside Virginia	557,567	557,567	0
Southwest Virginia	243,810	196,617	47,193
Tri-River	327,893	296,808	31,085
<b>Total</b>	<b>14,852,044</b>	<b>14,153,041</b>	<b>699,005</b>

**Executive  
Director's  
Report**

# Ignition Interlock and Remote Monitoring Summary Report

ASAP Location	Interlock Current	Interlock Difference Prior Year	Remote Current	Remote Difference Prior Year
April 2026				
Alexandria ASAP	83	6	0	0
Arlington ASAP	205	-26	0	0
Bull Run ASAP	828	-65	0	0
Central Virginia ASAP	266	-28	12	3
Chesapeake Bay ASAP	922	-56	0	-1
Court Community Corrections ASAP	364	12	0	0
Dan River ASAP	203	23	2	-2
District Nine ASAP	261	-23	0	0
Fairfax ASAP	568	-22	1	0
James River ASAP	293	-3	2	2
John Tyler ASAP	1,656	135	39	29
Mount Rogers ASAP	142	-16	3	2
New River Valley ASAP	314	0	7	-4
Old Dominion ASAP	450	-92	0	-2
Peninsula ASAP	560	-53	14	6
Rappahannock Area ASAP	561	16	0	-1
Rockingham/Harrisonburg ASAP	183	-20	0	-1
Southeastern Virginia ASAP	434	29	0	0
Southside Virginia ASAP	158	-30	4	1
Southwest Virginia ASAP	105	9	0	0
Tri River ASAP	277	19	2	1
<b>Totals</b>	<b>8,833</b>	<b>-185</b>	<b>86</b>	<b>33</b>

Date Printed: 5/18/2026

# The VASAP Training Conference

August 5<sup>th</sup> – August 6<sup>th</sup>



## Crowne Plaza Dulles Airport

2200 Centreville Road, Herndon, VA 20170

## **Sustainability of the Structure and Funding Model for VASAP**

### **Work Group Members**

Senate Committee on Finance & Appropriations	Mike Tweedy
House Committee on Appropriations	Andrea Peeks
Representatives of the Virginia Municipal League	Joe Flores/Janet Areson
Representative of the Virginia Association of Counties	Katie Boyle
Representative of the Department of Motor Vehicles	Brandy Brubaker
Commission Member	Margaret Steele
Representative of Attorney General's Office	Janet Baugh Senior Attorney General Unit Manager
Representative of local ASAPs	Krystal Hulette Director, Court Community Corrections ASAP

### **Commission Staff**

Angela Coleman, Executive Director  
Charlene Motley, Field Services Sup  
Chris Morris, VASAP Sp. Prog. Coord

### **TEOconsulting, LLC**

Linda L. Pierce  
James M. Burke  
Cookie Scott  
Suzette Denslow  
Diana Sardellis  
June Jennings



American Association of  
Motor Vehicle Administrators

# ISA Working Group Roster

Position	Name	Jurisdiction/Organization
Chair	Christopher Ireland	Maine Bureau of Motor Vehicles
Vice-Chair	Angela Coleman	Commission on Virginia Alcohol Safety Action Program
Region 1	Marquis Miles	District of Columbia Department of Motor Vehicles
Region 1	Pamela Washington	District of Columbia Department of Motor Vehicles
Region 2	Kecia Bivins	Georgia Department of Driver Services
Law Enforcement	Kevin Botkin	Virginia State Police
Region 2	Emily Witt	Virginia Department of Motor Vehicles
Region 3	Matthew Payne	Kansas Highway Patrol
Region 4	Brad Benfield	Washington State Department of Licensing
Region 4	Jon Munson	Oregon Driver and Motor Vehicle Services
Region 4	Tara E. Zamora	Utah Driver License Division
Legal Services	Mitch Greenwall	Nebraska Department of Motor Vehicles
AAMVA Staff - Project Manager	Jessi Ross	American Association of Motor Vehicle Administrators
AAMVA Staff	Cian Cashin	American Association of Motor Vehicle Administrators
AAMVA Staff	Tom Foster	American Association of Motor Vehicle Administrators
AAMVA Staff	Linda Coker	American Association of Motor Vehicle Administrators
Technical Advisor	Ken Denton	LifeSafer
Technical Advisor	Brandy Nannini	Steer Safe
Technical Advisor	Toby Taylor	Smart Start, Inc.
Technical Advisor	Michael Hanson	GHSA

**The Commission on Virginia  
Alcohol Safety Action Program  
Quarterly Meetings**

**2026**

**Dates:**

**September 18<sup>th</sup>**

**December 3<sup>rd</sup>**

**Time: 10:00 a.m.**

**Location:**

TBD

For additional information contact the Commission on VASAP office at 804-786-5895.

