



Final Regulation Revised Agency Background Document

Agency name	Board of Veterinary Medicine, Department of Health Professions
Virginia Administrative Code (VAC) citation	18 VAC 150-20-10 et seq.
Regulation title	Regulations Governing the Practice of Veterinary Medicine
Action title	Increase in fees
Date this document prepared	4/19/12

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The Board of Veterinary Medicine proposed amendments to increase fees charged to regulants and applicants. Annual renewal fees would be increased as follows: 1) For veterinarians, the increase is \$40 per year; 2) For veterinary technicians, the increase is \$20 per year; 3) For veterinary establishments, the increase is \$60 per year; and 4) For equine dental technicians, the increase is \$20 per year. Other fees are increased proportionally. Licensees would be allowed to renew a lapsed license for one year (one renewal cycle) with payment of the renewal fee and a late fee; thereafter, the licensee would be required to reinstate the license and pay the reinstatement fee.

There was a one-time debt reduction assessment proposed for renewal year 2013. In the revised final action, the additional one-time fee has been eliminated.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency or board taking the action, and (3) the title of the regulation.

On January 19, 2011, the Board of Veterinary Medicine adopted a final action to increase fees for professions it regulates in Regulations Governing the Practice of Veterinary Medicine. On April 19, 2012, the Board of Veterinary Medicine called a meeting to revise the final action to eliminate the one-time debt reduction fee in Regulations Governing the Practice of Veterinary Medicine.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Regulations of the Board of Veterinary Medicine are promulgated under the general authority of Title 54.1, Chapter 24 of the Code of Virginia.

Chapter 24 establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations in accordance with the Administrative Process Act which are reasonable and necessary and the authority to **levy and collect fees that are sufficient to cover all expenses** for the administration of a regulatory program.

§ 54.1-2400. General powers and duties of health regulatory boards.--The general powers and duties of health regulatory boards shall be:

- 5. To levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
- 6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title.*

The amended regulation is mandated by § 54.1-113.

§ 54.1-113. Regulatory boards to adjust fees.--Following the close of any biennium, when the account for any regulatory board within the Department of Professional and Occupational Regulation or the Department of Health Professions maintained under § 54.1-308 or § 54.1-2505 shows expenses allocated to it for the past biennium to be more than ten percent greater or less than moneys collected on behalf of the board, it shall revise the fees levied by it for certification or licensure and renewal thereof so that the fees are sufficient but not excessive to cover expenses.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The issue to be addressed is the need of the Board of Veterinary Medicine to increase their fees to cover expenses for essential functions of licensure, investigation of complaints against licensees and facilities, adjudication of disciplinary cases, and the inspections required for public safety in the care of animals in the Commonwealth.

Section 54.1-113 of the *Code of Virginia* requires that at the end of each biennium, an analysis of revenues and expenditures of each regulatory board shall be performed. It is necessary that each board have sufficient revenue to cover its expenditures. By the close of the 2008 fiscal year, the Board of Veterinary Medicine had incurred a deficit of \$148,069, and the board will continue to have deficits through the fiscal years going forward. Since the fees from licensees will no longer generate sufficient funds to pay operating expenses for the board, a fee increase is essential. In order to begin to reduce the deficit and have sufficient funding for the operation of the board, it is necessary to promulgate amendments at the earliest possible date. Projected revenue was calculated on an increased fee in effect for the renewal of licenses in December 2010; since that deadline was not met, the proposed increases may not be sufficient to make up the shortfall and have sufficient revenue going forward.

Even with the fee increase for the renewal in 2012 and thereafter, it is projected that the deficit will continue to increase – from (289,371) at the end of June 30, 2012 to (330,285) by June 30, 2014. If a fee increase is **not** in effect by November 2012, the deficit by June 30, 2014 is expected to climb to (516, 610).

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

In section 75, an amendment will allow a license to be renewed with payment of a late fee for up to one year after the expiration date; thereafter, the license must be reinstated. Currently, a license must be reinstated after it is lapsed for 30 days. New language will stipulate that a license shall automatically lapse if the licensee fails to renew by the expiration date; and the practice of veterinary medicine without a current, active license is unlawful and may subject the licensee to disciplinary action by the board.

In section 100, the fees are listed with increased renewal fees as follows: 1) For veterinarians, the increase is \$40 per year; 2) For veterinary technicians, the increase is \$20 per year; 3) For

veterinary establishments, the increase is \$60 per year; and 4) For equine dental technicians, the increase is \$20 per year. Other fees are increased proportionally.

The original assumption was that increased fees would be in effect by December 2010.

However, since the regulatory package was not approved in sufficient time to meet that deadline, the current assumption is a fee increase for renewal in 2012 and increased revenue for FY2013.

Without the one-time assessment in place in renewal year 2012, the cash balances would be projected as follows:

FY09 Revenue	652,360	FY12 Projected Revenue	730,000
FY09 Direct and Indirect Expenditures	<u>735,419</u>	FY12 Projected Direct and Indirect Expenditures	<u>750,000</u>
Cash Balance as of June 30, 2009	<u>(231,128)</u>	Projected Cash Balance as of June 30, 2012	<u>(289,371)</u>
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FY10 Budget Revenue	680,419	FY13 Projected Revenue	916,325
FY10 Budget Direct and Indirect Expenditures	<u>709,053</u>	FY13 Projected Direct and Indirect Expenditures	<u>932,160</u>
Cash Balance as of June 30, 2010	<u>(259,762)</u>	Projected Cash Balance as of June 30, 2013	<u>(305,206)</u>
Cash Balance as of June 30, 2010	(259,762)	Cash Balance as of June 30, 2014	(305,206)
FY11 Revenue	705,865	FY14 Projected Revenue	916,325
FY11 Direct and Indirect Expenditures	<u>715,474</u>	FY14 Projected Direct and Indirect Expenditures	<u>941,404</u>
Cash Balance as of June 30, 2011	<u>(269,371)</u>	Projected Cash Balance as of June 30, 2014	<u>\$ (330,285)</u>

Issues

Please identify the issues associated with the proposed regulatory action, including:
 1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
 2) *the primary advantages and disadvantages to the agency or the Commonwealth; and*
 3) *other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.*

- 1) The primary advantage to the public would be that increased fees will produce adequate revenue to fund the licensing and disciplinary activities of the board. With the **shortfall** at \$231,128 at the end of FY09 and continuing to rise, there could be significant delays in licensing new veterinarians and facilities; investigation and adjudication of complaints against licensees might have to be suspended. There are no disadvantages; increases in annual renewal fees ranging from \$20 to \$60 should not impact the cost of veterinary care for Virginians.
- 2) There are no disadvantages to the agency; the advantage would be that fees would be sufficient to cover expenditures, which is a requirement of the Code of Virginia.
- 3) There are no additional issues.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

There were no changes made to the proposed regulations.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Proposed regulations were published in the Virginia Register of Regulations on August 30, 2010. Public comment was requested for a 60-day period ending October 29, 2010. A Public Hearing before the Board of Veterinary Medicine was held on October 20, 2010. There was a comment at the public hearing from Diane Carey, who made the similar comment on the Townhall which is summarized below.

The following comment was received electronically on the Virginia Regulatory Townhall:

Commenter	Comment	Agency Response
Brad Nadelstein	License fee increase is not warranted; difficult for small businesses in this economy.	The Board understands the comment and regrets the need to increase fees but it cannot continue licensing, inspections, investigations and conducting disciplinary proceedings without additional revenue to offset the accumulated deficit; expenditures have been reduced wherever possible. The Board has only one source of revenue and that is licensing fees. By law, monetary fines assessed for disciplinary action accrue to the Literary Fund for school construction. The Board is required by §54.1-113 of the Code of Virginia to have adequate revenue to cover the direct and allocated expenditures of the board.
Albert Smith	Asks about justification for increase.	Increased costs and insufficient revenue was explained in the agency statement. By the close of the 2008 fiscal year, the Board had a shortfall of \$148,069. If there is no action on fee increases, the shortfall is projected to increase to \$1.4 million by FY2014, which would seriously impact the board's ability to investigate complaints, adjudicate disciplinary cases and issue new licenses.
Bob Ugarte	Notes that the regulatory program for veterinarians is 100% self-supporting. Cost of personnel, rent and IT services have increases and are not under the control of the Board.	The agency concurs with the comment.
Diane Carey	The Board is not justified in raising	The Board has received comment from Ms. Carey at

	fees because she believes it is not doing its job in protecting the public, based on her recent experience with a complaint she filed. Provided a detailed account of complaint she filed on which the Board took no disciplinary action. Recommends a decrease in funding because the process is not open and transparent.	several of its meetings relating to the investigation and determination of her complaint. The Board handled the case consistent with its policies and within the law that requires confidentiality of investigative reports. The Board does not believe there is a relationship between her dissatisfaction with the outcome of her complaint and the need to increase fees to have sufficient revenue to conduct investigations, etc.
M. Wakefield	Asks about public opinion and benefit. Fee increasing is not the solution.	The agency has described the need for the action and the public benefit in the agency background statement.
Dr. Tregel Cockburn	Not opposed to increased fees but is opposed to annual renewal.	A biennial renewal would not increase the revenue and would make it more difficult for the Board to have a consistent revenue stream. A biennial fee would double the amount and be more difficult for some practitioners to pay.
Little bo peep	Should divide the fee for the type of veterinary practice – depending on domestic animals or farm animals	The Board has not considered such a division.
Sam, citizen	Increase in veterinarian license fees might increase professional fees for consumers.	The increase for veterinarians is only \$40 per year; passed on to consumers, that amount could only increase professional fees by pennies per client.
Julie Catalano	Need to consider the benefit to the public; reading account by Ms. Carey of dismissal of her complaint makes her wonder if the Board is doing its job.	The Board has described the need for the action and the public benefit in the agency background statement posted on Townhall.
VA taxpayer	Provided a blog site that should be visited	The Board does not believe the blog is relevant.
Greg Munson	Increase should be earmarked to open the complaint process and make it fair; reading account by Ms. Carey of dismissal of her complaint makes her wonder if the Board is doing its job.	The Board handled the case consistent with its policies and within the law that requires confidentiality of investigative reports. The Board does not believe there is a relationship between the outcome of the Carey case and the need to increase fees to have sufficient revenue to conduct investigations, etc.
SW	No increase in regulation – should stop the ground zero mosque	The Board acknowledges the objection but does not believe the comment is relevant.
Concerned citizen	Sympathy expressed for Ms. Carey. If this type of vet is sanctioned by the state, there is no purpose for increased fees.	The Board acknowledges the opinion of the commenter.
VA Pet Owner	Comment in support of Ms. Carey.	The Board does not believe the comment is relevant.
Heather Hall	Opposed to fee increase because average worker asked to do more with no pay increase; experience with renewal on-line has not been good. Have not justified a fee increase based on what Ms. Carey describes in her complaint.	The Board has described the need for the action and the public benefit.

All changes made in this regulatory action

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections.

Current section number	Current requirement	Proposed change, rationale, and consequences																																						
75	Establishes the rules for renewal and payment of fees.	<p>Amendments would provide that a licensee or registrant may renew a lapsed license or registration for one renewal cycle or one year by payment of the renewal fee and a late fee. After one year, the person or facility must reinstate the license or registration.</p> <p><i>The Principles for Fee Development, adopted by the department in 1999 as a Guidance Document to provide consistency in setting fees, allow for renewal for one renewal cycle by payment of the renewal fee and late fee; other boards at DHP have adopted that policy in regulation. This amendment would make veterinary medicine consistent with the fee principles.</i></p> <p><i>To ensure that regulants clearly understand that practice on a lapsed license or registration is unlawful and may subject the licensee to disciplinary action, the board has added such a statement (consistent with regulations of other boards in the department).</i></p>																																						
100	Establishes the fee schedule for initial applications, renewals, and all other transactions conducted by the board.	<p>The current and proposed fees are as follows:</p> <table border="0" style="width: 100%;"> <tr> <td><u>Veterinary application for licensure</u></td> <td style="text-align: right;"><u>\$200</u></td> </tr> <tr> <td>Veterinary initial license or renewal (active)</td> <td style="text-align: right;">\$135 <u>\$175</u></td> </tr> <tr> <td>Veterinary license renewal (inactive)</td> <td style="text-align: right;">\$65 <u>\$85</u></td> </tr> <tr> <td>Veterinary reinstatement of expired license</td> <td style="text-align: right;">\$175 <u>\$255</u></td> </tr> <tr> <td>Veterinary license late renewal</td> <td style="text-align: right;">\$45 <u>\$60</u></td> </tr> <tr> <td>Veterinarian reinstatement after disciplinary action</td> <td style="text-align: right;">\$300 <u>\$450</u></td> </tr> <tr> <td><u>Veterinary technician application for licensure</u></td> <td style="text-align: right;"><u>\$65</u></td> </tr> <tr> <td>Veterinary technician initial license or renewal</td> <td style="text-align: right;">\$30 <u>\$50</u></td> </tr> <tr> <td>Veterinary technician license renewal (inactive)</td> <td style="text-align: right;">\$15 <u>\$25</u></td> </tr> <tr> <td>Veterinary technician license late renewal</td> <td style="text-align: right;">\$15 <u>\$20</u></td> </tr> <tr> <td>Veterinary technician reinstatement of expired license</td> <td style="text-align: right;">\$50 <u>\$95</u></td> </tr> <tr> <td>Veterinary technician reinstatement after disciplinary action</td> <td style="text-align: right;">\$75 <u>\$125</u></td> </tr> <tr> <td>Initial veterinary establishment permit registration</td> <td style="text-align: right;">\$200 <u>\$300</u></td> </tr> <tr> <td>Equine dental technician initial registration</td> <td style="text-align: right;">\$100</td> </tr> <tr> <td>Equine dental technician registration renewal</td> <td style="text-align: right;">\$50 <u>\$70</u></td> </tr> <tr> <td>Equine dental technician late renewal</td> <td style="text-align: right;">\$20 <u>\$25</u></td> </tr> <tr> <td>Equine dental technician reinstatement</td> <td style="text-align: right;">\$120</td> </tr> <tr> <td>Veterinary establishment renewal</td> <td style="text-align: right;">\$140 <u>\$200</u></td> </tr> <tr> <td>Veterinary establishment late renewal</td> <td style="text-align: right;">\$45 <u>\$75</u></td> </tr> </table>	<u>Veterinary application for licensure</u>	<u>\$200</u>	Veterinary initial license or renewal (active)	\$135 <u>\$175</u>	Veterinary license renewal (inactive)	\$65 <u>\$85</u>	Veterinary reinstatement of expired license	\$175 <u>\$255</u>	Veterinary license late renewal	\$45 <u>\$60</u>	Veterinarian reinstatement after disciplinary action	\$300 <u>\$450</u>	<u>Veterinary technician application for licensure</u>	<u>\$65</u>	Veterinary technician initial license or renewal	\$30 <u>\$50</u>	Veterinary technician license renewal (inactive)	\$15 <u>\$25</u>	Veterinary technician license late renewal	\$15 <u>\$20</u>	Veterinary technician reinstatement of expired license	\$50 <u>\$95</u>	Veterinary technician reinstatement after disciplinary action	\$75 <u>\$125</u>	Initial veterinary establishment permit registration	\$200 <u>\$300</u>	Equine dental technician initial registration	\$100	Equine dental technician registration renewal	\$50 <u>\$70</u>	Equine dental technician late renewal	\$20 <u>\$25</u>	Equine dental technician reinstatement	\$120	Veterinary establishment renewal	\$140 <u>\$200</u>	Veterinary establishment late renewal	\$45 <u>\$75</u>
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Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

There are no alternative regulatory methods; promulgation of amended regulations to increase fees is the only method for obtaining revenue sufficient to cover the board's expenditures.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The regulatory action would not strengthen or erode the authority and rights of parents, encourage or discourage economic self-sufficiency, or strengthen or erode the marital commitment.