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## Proposed Regulation Agency Background Document

<b>Agency name</b>	Board of Veterinary Medicine, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation(s)</b>	18VAC150-20
<b>Regulation title(s)</b>	Regulations Governing the Practice of Veterinary Medicine
<b>Action title</b>	Licensure for faculty and residents at the veterinary college
<b>Date this document prepared</b>	3/7/17

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (preferably no more than 2 or 3 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.*

In accordance with provisions of Chapter 306 of the 2016 Acts of the Assembly, the Board is promulgating regulations for a faculty license and an intern/resident license for persons providing clinical care to animals at an accredited veterinary education program in Virginia.

### Acronyms and Definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

## Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

**Chapter 24 of Title 54.1** establishes the general powers and duties of health regulatory boards, including the Board of Veterinary Medicine, the responsibility to promulgate regulations and to levy fees sufficient to cover expenses:

*5. To levy and collect fees for application processing, examination, registration, certification or licensure or the issuance of a multistate licensure privilege 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. (Effective January 1, 2017) To promulgate regulations in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.) that are reasonable and necessary to administer effectively the regulatory system, which shall include provisions for the satisfaction of board-required continuing education for individuals registered, certified, licensed, or issued a multistate licensure privilege by a health regulatory board through delivery of health care services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those health services. 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.).*

The specific authority of the Board relating to establishment of faculty/resident licensure is found in the amendment to § 54.1-3801 (3) and the powers and duties of the Board in § [54.1-3804](#):

§ [54.1-3801](#). Exceptions.

This chapter shall not apply to:

1. The owner of an animal and the owner's full-time, regular employee caring for and treating the animal belonging to such owner, except where the ownership of the animal was transferred for the purpose of circumventing the requirements of this chapter;
2. Veterinarians licensed in other states called in actual consultation or to attend a case in this Commonwealth who do not open an office or appoint a place to practice within ~~this the~~ the Commonwealth;
3. Veterinarians employed by the United States or by ~~this the~~ the Commonwealth while actually engaged in the performance of their official duties, *with the exception of those engaged in the*

*practice of veterinary medicine, pursuant to § 54.1-3800, as part of a veterinary medical education program accredited by the American Veterinary Medical Association Council on Education and located in the Commonwealth;*

4. Veterinarians providing free care in underserved areas of Virginia who (i) do not regularly practice veterinary medicine in Virginia, (ii) hold a current valid license or certificate to practice veterinary medicine in another state, territory, district, or possession of the United States, (iii) volunteer to provide free care in an underserved area of the Commonwealth under the auspices of a publicly supported all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) file copies of their licenses or certificates issued in such other jurisdiction with the Board, (v) notify the Board at least five business days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledge, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in Virginia to any veterinarian whose license has been previously suspended or revoked, who has been convicted of a felony, or who is otherwise found to be in violation of applicable laws or regulations. However, the Board shall allow a veterinarian who meets the above criteria to provide volunteer services without prior notice for a period of up to three days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state; or

5. Persons purchasing, possessing, and administering drugs in a public or private shelter as defined in § 3.2-6500, provided that such purchase, possession, and administration is in compliance with § 54.1-3423.

§ 54.1-3804. Specific powers of Board.

In addition to the powers granted in § 54.1-2400, the Board shall have the following specific powers and duties:

1. To establish essential requirements and standards for approval of veterinary programs.
2. To establish and monitor programs for the practical training of qualified students of veterinary medicine or veterinary technology in college or university programs of veterinary medicine or veterinary technology.
3. To regulate, inspect, and register all establishments and premises where veterinary medicine is practiced.
- 4. To establish requirements for the licensure of persons engaged in the practice of veterinary medicine, pursuant to § 54.1-3800, as part of a veterinary medical education program accredited by the American Veterinary Medical Association Council on Education and located in the Commonwealth.**

## Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation 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.*

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The proposed action is mandated by the third enactment on HB1058 adopted by the 2016 General Assembly: *That the Board of Veterinary Medicine shall adopt regulations for the licensure of veterinarians employed by the United States or the Commonwealth who are engaged in the practice of veterinary medicine, pursuant to §54.1-3801, as part of a veterinary medical education program accredited by the American Veterinary Medical Association Council on Education and located in the Commonwealth by July 1, 2018.*

The intent of the Board is to establish licensure for persons who are engaged in the practice of veterinary medicine at an accredited veterinary college or any of its subsidiary clinics, so those individuals who provide clinical care to animals will be accountable to the Board. The ability to discipline those practitioners, if they are found in violation of law or regulation, will protect the health and safety of patients and the welfare of their owners.

## Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of changes” section below.*

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In accordance with provisions of Chapter 306 of the 2016 Acts of the Assembly, the Board is promulgating regulations for a faculty license and an intern/resident license for persons providing clinical care to animals at an accredited veterinary education program in Virginia. Proposed regulations set fees for application and renewal, establish the qualifications for a faculty or resident license, and set out the limitations on practice settings for such licenses.

## 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.*

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1) The primary advantage of the amendments is accountability for the clinical care of animals provided by faculty, interns, and residents at the veterinary school. There are no disadvantages for the public which will have some recourse if their animal is harmed by the negligence or unprofessional conduct by a veterinarian at an veterinary educational program.

- 2) There are no advantages or disadvantages to the Commonwealth.
- 3) The Director of the Department of Health Professions has reviewed the proposal and performed a competitive impact analysis. The Board is authorized under § 54.1-2400 to “promulgate regulations in accordance with the Administrative Process Act which are reasonable and necessary to administer effectively the regulatory system.” The Board is complying with a 2016 legislative mandate: *That the Board of Veterinary Medicine shall adopt regulations for the licensure of veterinarians employed by the United States or the Commonwealth who are engaged in the practice of veterinary medicine, pursuant to §54.1-3801, as part of a veterinary medical education program accredited by the American Veterinary Medical Association Council on Education and located in the Commonwealth by July 1, 2018.*

The requirement for practitioners at the veterinary school to hold licensure is a foreseeable result of the statute requiring the Board to protect the health and safety of patients in the Commonwealth. Any restraint on competition that results from this regulation is in accord with the General Assembly’s policy as articulated in § 54.1-100 and is necessary for the preservation of the health, safety, and welfare of the public.

**Requirements more restrictive than federal**

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

There are no applicable federal requirements.

**Localities particularly affected**

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

There are no localities particularly affected.

**Public participation**

*Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.*

In addition to any other comments, the Board of Veterinary Medicine is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses,

and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so by mail, email or fax to Elaine Yeatts at [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov) or at 9960 Mayland Drive, Henrico, VA 23233 or by fax at (804) 527-4434.. Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at: <http://www.townhall.virginia.gov>. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://www.virginia.gov/connect/commonwealth-calendar>). Both oral and written comments may be submitted at that time.

**Economic impact**

*Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.*

<p><b>Projected cost to the state to implement and enforce the proposed regulation, including:</b>  <b>a) fund source / fund detail; and</b>  <b>b) a delineation of one-time versus on-going expenditures</b></p>	<p>As a special fund agency, the Board must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to practitioners or entities for necessary functions of regulation. All notifications will be done electronically. No additional personnel will be required for licensing these individuals.                  Any on-going expenditure for licensing and discipline should be minimal and will be absorbed in the budget of the Board.</p>
<p><b>Projected cost of the new regulations or changes to existing regulations on localities.</b></p>	<p>There are no costs to localities.</p>
<p><b>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</b></p>	<p>The Virginia-Maryland Regional College of Veterinary Medicine at Virginia Tech is currently the only educational program in Virginia. Faculty at the College who have clinical appointments and are currently not licensed by the Board are affected. Residents and interns are graduates who have passed the licensure examination and are eligible for a full license. If they do not have a license, they will need to obtain a resident/intern license.</p>
<p><b>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses</b></p>	<p>It is estimated that 75 of the faculty at the College are engaged in clinical practice and would require a faculty license for that purpose. An additional</p>

<p><b>affected.</b> Small business means a business entity, including its affiliates, that:  a) is independently owned and operated and;  b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>number (25) already hold a license to practice because they are also engaged in private practice apart from their duties at the College. There are typically 25 residents and 5 interns who would require a temporary license to practice. None of the affected entities are small businesses.</p>
<p><b>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including:</b>  a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and  b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>Costs of the new regulations will accrue to veterinarians at the school or to the school itself, if it chooses to pay for licensure for its faculty. The application fee is half the cost of a full licensure application and the renewal fee is less than half. The intern and resident license cost of \$25 is minimal for those practitioners.</p>
<p><b>Beneficial impact the regulation is designed to produce.</b></p>	<p>The benefit of the regulation is derived from assurance to the public that practitioners who are negligent in their practice and cause harm to animals in their care will be accountable to the Board.</p>

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

The Board of Veterinary Medicine began discussion about the need to have the faculty at the Va/Md College of Veterinary Medicine and its residents/interns licensed. The Board directed staff to contact representatives of the College for a discussion of the issue with the goal of having legislation prepared for possible introduction in 2017. The discussion resulted in all parties agreeing on concepts for language similar to faculty/temporary licenses for dentistry. The collaborative approach was appreciated by those involved in the discussion.

However, prior to the 2016 Session, Del. Rush was contacted by a constituent who had a bad experience with her cat being treated by a veterinarian at the College. DHP facilitated a call with the patron, a representative for Va. Tech, and a substitute was provided to the Delegate that was acceptable to him and the school.

The Board has adopted regulations for a faculty license, limited to practice within the College and its clinics and a temporary license for interns and residents. By licensing these individuals, they become accountable to the Board, which was the intent of the patron and the proponent. Costs have been kept at a minimum to reduce the impact on the College and its veterinarians.

To develop regulations for faculty/resident licensure, the Board utilized a Regulatory Advisory Panel, comprised of a board member, a former board member and preceptor for the school, the



President of the Virginia Veterinary Medical Association, and the Director of the Veterinary Teaching Hospital at the College.

### Regulatory flexibility analysis

*Pursuant to § 2.2-4007.1B of the Code of Virginia, 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.*

Given the mandate of the General Assembly to promulgate regulations for licensure, there is no regulatory flexibility.

### Public comment

*Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.*

Commenter	Comment	Agency response
Martin Betts, DVM	Will allow qualified veterinarians to join the faculty at VMRCVM and be licensed in Virginia. Many highly regarded veterinarians would choose to teach elsewhere if we do not support this change.	The agency concurs.

### Family impact

*Please assess the impact of this 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.*

There is no impact on the family.

### Detail of changes

*Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation.*



*If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below.*

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
100	N/A	Sets the fees for initial licensure and renewal of licensure	<p>The application fee (\$100) for a faculty license is half the cost of a full license (\$200). The annual renewal for a faculty license is \$75, compared with \$175 for a full, active license. The initial or renewal fee for a resident/intern license is \$25.</p> <p><i>The intent is setting fees was to minimize the fiscal impact on practitioners and the College but to provide adequate funds to offset expenditures relating to regulation of these licensure types. By comparison: In Dentistry, there is no differentiation in fees between a full license and a faculty license (\$400 for application and \$285 for renewal). In Medicine, there is no faculty license; all faculty with any clinical practice hold full licensure. The resident license in Dentistry costs \$60 initially and \$35 for renewal; the resident license in Medicine costs \$25.</i></p>
N/A	122	Sets the requirements for a faculty license	<p>Subsection A provides authority to issue the faculty license to a faculty member at an educational program accredited by the AVMA Council on Education and sets the qualifications for such a license. Three options are provided:</p> <ol style="list-style-type: none"> <li>1. Is qualified for full licensure pursuant to 18VAC150-20-110 or 18VAC150-20-120;</li> <li>2. Is a graduate of an accredited veterinary program and has an unrestricted, current license, or if lapsed is eligible for reinstatement, in another U. S. jurisdiction; or</li> <li>3. Is a graduate of a veterinary program and has advanced training recognized by the American Board of Veterinary Specialties or a specialty training program acceptable to the veterinary medical education program in which he serves on the faculty.</li> </ol> <p><i>The Director of the teaching hospital at the College participated in the development of regulations and is satisfied that all clinical faculty will meet one or more of these qualifications. If an applicant is otherwise qualified for a full license by examination or endorsement, he/she would qualify under #1. If a faculty member is a graduate of an accredited program and has a license in another jurisdiction, he/she would qualify under #2. If a faculty member was not a graduate of an AVMA</i></p>

		<p><i>accredited program (came from a foreign school), he/she would only be hired by the College if he/she had advanced specialty training. Therefore, there should be no impact on the faculty other than the submission of documentation through the College of their qualifications.</i></p> <p>Subsection B requires the dean of a veterinary medical education program to provide verification that the applicant is being or has been hired by the program and shall include an assessment of the applicant's clinical competency and clinical experience that qualifies the applicant for a faculty license.</p> <p><i>The assessment will likely come in the form of a copy of the applicant's resume detailing the clinical competency and experience on which the applicant was employed as faculty by the College. There should be a minimal impact in meeting this requirement.</i></p> <p>Subsection C sets out the practice parameters for a faculty license limited to performance of all functions that a person licensed to practice veterinary medicine would be entitled to perform as part of his faculty duties, including patient care functions associated with teaching, research, and the delivery of patient care that takes place only within the veterinary establishment or diagnostic and clinical services operated by or affiliated with the veterinary program. A faculty license does not authorize the holder to practice veterinary medicine in nonaffiliated veterinary establishments or in private practice settings.</p> <p><i>The practice setting limitation for a faculty license is consistent with the faculty license in Dentistry and the intent of the legislation.</i></p> <p>Subsection D establishes the expiration and renewal requirements for a faculty license. An initial license is valid for at least one year and expires on December 31 of the second year after its issuance. It may be renewed annually without a requirement for continuing education as long as the accredited program certifies to the licensee's continued employment. When such a license holder ceases serving on the faculty, the license becomes null and void upon termination of employment. The dean of the veterinary medical education program is required to notify the board within 30 days of such termination of employment.</p> <p><i>Other than payment of a renewal fee and continued employment by the College, there are no requirements for renewal. When a person is no longer on the faculty, he/she is no longer</i></p>
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N/A	123	Sets out requirements for a resident/intern license	<p><i>eligible for a faculty license.</i></p> <p>Subsection A provides authority to issue the resident/intern license and sets the qualifications for such a license. An application must be accompanied by a recommendation of the dean or director of graduate education of the veterinary medical education program and evidence that an applicant is a graduate of an AVMA-accredited program or who meets requirements of the Educational Commission of Foreign Veterinary Graduates (ECFVG) or the Program for the Assessment of Veterinary Education Equivalence (PAVE) of the AAVSB, as verified by the veterinary medical education program. The application must include the beginning and ending dates of the internship or residency.</p> <p><i>The applicant may either be a graduate of an accredited program or, if a foreign-trained graduate, has met the equivalency assessment of ECFVG or PAVE. The residency or internship would be for a set period of time, typically two or three years for a residency and one year for an internship.</i></p> <p>Subsection B provides that the intern or resident must be supervised by a fully licensed veterinarian or a veterinarian who holds a faculty license issued by the board. The practice limitation for an intern or resident is the same as for the faculty license; they may only practice within the veterinary establishment or diagnostic and clinical services operated by or affiliated with the veterinary program. A temporary license does not authorize the holder to practice veterinary medicine in nonaffiliated veterinary establishments or in private practice settings</p> <p>Subsection C establishes that the intern or resident license expires on August 1 of the second year after its issuance and may be renewed upon recommendation by the dean of the veterinary medical education program.</p> <p><i>Interns and residents typically begin their program in late Spring or early Summer, so someone with a one-year internship would not have to renew.</i></p>
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