



Fast Track Proposed Regulation Agency Background Document

Agency name	Board of Veterinary Medicine, Department of Health Professions
Virginia Administrative Code (VAC) citation	18VAC150-20-10 et seq.
Regulation title	Regulations Governing the Practice of Veterinary Medicine
Action title	Regulatory reform changes
Date this document prepared	2/14/13

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

Amendments were adopted following a periodic review of regulations pursuant to the Governor's regulatory reform project. Amendments will: 1) allow international conferences of veterinary medicine to be used for continuing education; 2) change the required time frame for reinstatement from 30 days after expiration to one year; and 3) revise the requirement for delegation of animal massage.

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 taking the action, and (3) the title of the regulation.

On February 7, 2013, the Board of Veterinary Medicine adopted changes to 18VAC150-20-10 et seq., 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 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.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, which provides the Board of Veterinary Medicine the authority to promulgate regulations to administer the regulatory system:

§ 54.1-2400 -General powers and duties of health regulatory boards

The general powers and duties of health regulatory boards shall be:

...

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 specific statutory mandate to regulate veterinary establishments is found in § 54.1-3804:

§ 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.*

The specific statutory mandate for licensure in order to practice veterinarian medicine is found in § 54.1-3805 and the practice of veterinary medicine is found in § 54.1-3800:

§ 54.1-3805. License required.

No person shall practice veterinary medicine or as a veterinary technician in this Commonwealth unless such person has been licensed by the Board.

§ 54.1-3800. Practice of veterinary medicine.

Any person shall be regarded as practicing veterinary medicine within the meaning of this chapter who represents himself, directly or indirectly, publicly or privately, as a veterinary doctor or uses any title, words, abbreviation or letters in a manner or under circumstances which may reasonably induce the belief that the person using them is qualified to practice veterinary medicine.

Any person shall be deemed to be practicing veterinary medicine who performs the diagnosis, treatment, correction, change, relief or prevention of animal disease, deformity, defect, injury, or other physical or mental conditions; including the performance of surgery or dentistry, the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, and the use of any manual or mechanical procedure for embryo transfer, for testing for pregnancy, or for correcting sterility or infertility, or to render advice or recommendation with regard to any of the above.

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 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.

Licensure and standards of practice for veterinary practitioners and establishments are necessary to protect the health and welfare of the animal clients and their owners. The proposed amendments facilitate maintenance of licensure which ensures continued oversight of veterinary practice.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The amendments proposed will result in less restrictive regulation or a revision for clarity without any substantive change. There should be no controversy with any of the changes.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.) Please be sure to define any acronyms.

The only substantive change is that licensees and registrants will be able to renew a lapsed license or registration by payment of the renewal and late fee for up to one year after the

expiration date. Currently, a licensee or registrant who does not renew within 30 days of expiration has to reinstate his license.

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) There are no advantages or disadvantages to the public. Allowing renewal by payment of a late fee for one year after expiration may benefit a very small number of licensees and registrants.
- 2) There are no advantages or disadvantages to the agency or the Commonwealth.
- 3) There are no other pertinent matters of interest.

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 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.

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.

The amendments proposed by the Board are less stringent and provide more flexibility in the maintenance of licensure. There are no alternative regulatory methods other than the promulgation of amended regulations for Chapter 20.

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>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>a) 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 for necessary functions of regulation; and b) The agency will not incur additional costs for email notification to persons on the Public Participation Guidelines mailing lists. There will be no on-going expenditures related to this action.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>There are no costs to localities.</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>Persons affected by changes would be licensed veterinarians, veterinary technicians and registered equine dental technicians</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>There are 3771 licensed veterinarians, 1613 licensed veterinary technicians and 22 registered equine dental technicians. All veterinarians and veterinary technicians work in veterinary establishments, and there are 272 restricted veterinary facilities and 736 full-service facilities. Almost all of the facilities would be considered small businesses.</p>
<p>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. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. 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>There are no costs to licensees for the regulatory changes; a small number of persons with lapsed licenses will have a cost reduction in a late renewal versus reinstatement.</p>

<p>Beneficial impact the regulation is designed to produce.</p>	<p>The beneficial impacts are another option for obtaining continuing education and reduction in fees for persons who are late (past 30 days) in renewing a license.</p>
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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.

There are no alternatives to the proposal that meet the essential purpose of the action to allow more flexibility and reduce the regulatory burden.

Periodic review/small business impact review result

If this fast-track regulation is not the result of a periodic review/small business of the regulation, please delete this entire section.

If this fast-track regulation is the result of a periodic review/small business impact review, please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and (2) indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

The Notice of Periodic Review was published in the Register of Regulations, posted on Townhall and sent to the public participation mailing list for the Board of Veterinary Medicine with the opportunity for comment from November 5th to December 5th. There were no comments.

The regulation meets the criteria in Executive Order 14 as it is necessary for public health and the safety of animals in veterinary care; it is clearly written and easily understandable. There have been no complaints, no concerns about complexity and no conflict with state or federal law or regulation.

1) In accordance with the Code of Virginia, the Board is required to promulgate regulations for licensure. In addition to the authority to “regulate, inspect and register all establishments and premises where veterinary medicine is practiced” found in § 54.1-3804, the Code provides that “No person shall practice veterinary medicine or as a veterinary technician in this

Commonwealth unless such person has been licensed by the Board” (§ 54.1-3805). Therefore, there is a continued need for the regulation.

- 2) There were no complaints or comments received from the public.
- 3) The regulation is organized and written similarly to other chapters promulgated by health regulatory boards; it appears to be clear and easily understood.
- 4) The regulation does not overlap with federal or state law, which is not specific about the criteria for licensure or the standards of practice. Grounds for unprofessional conduct in § 54.1-3807, which apply to all regulated entities under the Board, are not repeated in the regulations.
- 5) The regulation is frequently reviewed for consistency with changes in technology and practice. Accordingly, it has been amended 11 times in the last 10 years.

The economic impact of this regulation is minimal for a licensure scheme. Fees of \$135 for veterinarians and \$30 for veterinary technicians are required to maintain a license and do not appear to be burdensome. However, current fees are inadequate to support the licensing, inspection and disciplinary functions of the Board. In the last biennium, there was 15.1% growth in the number of veterinary technicians, 7% in the number of veterinarians, 12.5% in restricted facility licenses, 3.8% in full-service licenses, and 14.3% growth in the number of equine dental technicians.

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.

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. 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.

Current section number	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
70	Sets out requirements for licensure renewal including a	Adds “international” conferences in veterinary medicine <i>Current national and regional conferences may receive CE</i>

	listing of organizations that may sponsor or approve continuing education.	<i>credit; there are several high quality international conferences that the Board believes should be accepted.</i>
75	Sets out requirements for payment of a late fee and reinstatement of a lapsed license	<p>Currently, a license may be renewed up to 30 days after expiration by payment of a late fee and the renewal fee. After 30 days, the licensee must reinstate with payment of the reinstatement and renewal fees. For veterinarians, the reinstatement fee is \$175. For veterinary technicians, the reinstatement fee is \$80.</p> <p>The amendment will allow late renewal up to one year after expiration; the late fee is \$45 for veterinarians and for the late fee for veterinary technicians is \$15. Licensees who want to renew an expired license between 31 days and one year after the expiration date will realize a saving of \$130 for veterinarians and \$35 for veterinarian technicians. Reinstatement also requires submission of all documentation showing completion of continuing education. A late renewal only requires verification of continuing education hours.</p> <p><i>An agency policy/guidance document for consistency in setting fees by all boards within the Department of Health Professions provides that a regulated entity should be able to renew a license by payment of the renewal and late fee for one renewal cycle before reinstatement is required. Regulations of the Board of Veterinary Medicine have not been consistent with that policy or with other boards at DHP.</i></p>
130	Sets out requirements for practical training in a preceptorship or externship	Subsection A is revised to state the regulation in the affirmative and to make it more clearly stated. There is no change in the requirements. An amendment in subsection B adds a term (extern) used in the section interchangeably with the term preceptee.
172	Sets out the tasks that may be delegated by a veterinarian	Currently, subsection D specifies that “animal massage” may be delegated to persons qualified by training and experience by order of the veterinarian. The Board does not believe animal massage needs to be delegated by an order. Similar to human massage, it may be done in a spa-like facility. However, massage therapy is typically used to treat a medical condition and should be delegated by an order. Therefore, the term “animal massage” is deleted and “massage therapy” is substituted.
220	Sets out requirements for registration as an equine dental technician	<p>Currently, registration as an equine dental technician may be renewed up to 30 days after expiration by payment of a late fee and the renewal fee. After 30 days, the registrant must reinstate with payment of the reinstatement and renewal fees. For equine dental technicians, the reinstatement fee is \$120.</p> <p>The amendment will allow late renewal up to one year after expiration; the late fee is \$20. Registrants who want to renew an expired registration between 31 days and one year after the expiration date will realize a saving of \$100. Reinstatement also requires submission of all documentation showing completion of continuing education. A late renewal only requires verification of continuing education hours.</p>