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Fast-Track Regulation Agency Background Document

Agency name	Board of Veterinary Medicine, Department of Health Professions
Virginia Administrative Code (VAC) Chapter citation(s)	18VAC150-20
VAC Chapter title(s)	Regulations Governing the Practice of Veterinary Medicine
Action title	Veterinary Nursing
Date this document prepared	3/15/2021

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Board proposes amending regulations to reflect the Board's approval of the position statement of the American Veterinary Medical Association on terminology for veterinary nurse as a veterinary technician. The proposed regulations amend the licensure requirements for veterinary technicians to accept a degree from an accredited program in veterinary technology that results in a degree in "veterinary nursing." The proposed regulations for licensure by endorsement are also amended to accept the credential of a person who has been practicing in another jurisdiction as a veterinary nurse. In Virginia, the Board will continue to license applicants as veterinary technician as that is the title recognized in the Code of Virginia.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

N/A

Statement of Final Agency Action

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 March 11, 2021, the Board of Veterinary Medicine proposed amending 18VAC150-20-115 and 18VAC150-20-121, Regulations Governing the Practice of Veterinary Medicine.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

As required by Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track process.

The Board has decided to amend its regulations to recognize the veterinary "nurse" degree for licensure by examination and the use of the title "veterinary nurse" for licensure by endorsement for applicants seeking licensure as veterinary technicians in Virginia.

The rulemaking is concurring with the American Veterinary Medical Association in accepting veterinary nurse designations as the same as veterinary technician designations. The action does not change the term "veterinary technician" nor does it affect veterinary technology programs in the Commonwealth. Since the intent is to expand access and availability to the profession and since the scope of practice is not affected, it is not expected to be controversial.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency'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:

- 1. To establish the qualifications for registration, certification, licensure or the issuance of a multistate licensure privilege in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
- 2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
- 3. To register, certify, license or issue a multistate licensure privilege to qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- 4. To establish schedules for renewals of registration, certification, licensure, and the issuance of a multistate licensure privilege.*
- 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. 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 Board of Veterinary Medicine promulgates regulations for veterinary technicians in accordance with section 54.1-3805 of the Virginia Code, which prohibits any person from practicing as a veterinary technician without Board licensure, and section 54.1-3806, which prohibits veterinary technicians from performing certain tasks.

§ 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.

...

§ 54.1-3806. Licensed veterinary technicians.

The Board may license a veterinary technician to perform acts relating to the treatment or the maintenance of the health of any animal under the immediate and direct supervision of a person licensed to practice veterinary medicine in the Commonwealth or a veterinarian who is employed by the United States or the Commonwealth while actually engaged in the performance of his official duties. No person licensed as a veterinary technician may perform surgery, diagnose, or prescribe medication for any animal.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The purpose of this regulatory action is to ensure that veterinary “nurse” degree holders are not excluded from licensure as veterinary technicians due solely to their program’s terminology. The educational program in veterinary technology and the examination taken by graduates is the same for veterinary technicians or veterinary nurses, so there is no difference in their preparation for practice or their demonstration of competency. Therefore, the health and safety of animals in Virginia would be equally protected in the care of persons with either degree or title.

Substance

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.

The substantive provisions of this regulatory action allow applicants to apply for registration as a veterinary technician with the Board with a college or school transcript designating the words “veterinary nurse/nursing” and to allow applicants to apply for licensure by endorsement with the Board if they have “veterinary nurse” credentials, licensing, or registration from another jurisdiction.

Issues

Identify the issues associated with the regulatory change, 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, include a specific statement to that effect.

- 1) The primary advantage is the removal of any barriers to qualified applicants for licensure as veterinary technicians. Virginia has a shortage of technicians who are vital to veterinary practices, so amendments that remove potential barriers are advantageous to persons who utilize veterinary services. There are no disadvantages to the public.

- 2) The primary advantage to the Department is continued recognition of qualified persons applying for licensure.
- 3) The Board approved the position statement on Veterinary Technician Terminology of the American Veterinary Medical Association, recognizing the use of the term “veterinary nurse” as a “veterinary technician”.

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 (§ 2.2-4000 et seq. which are reasonable and necessary to administer effectively the regulatory system.*” Any restraint on competition that results from this regulation is in accord with the General Assembly’s policy as articulated in § 54.1-100.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and 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 specific statement to that effect.

There are no applicable federal regulations.

Agencies, Localities, and Other Entities Particularly Affected

Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. “Particularly affected” are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected - None

Localities Particularly Affected - None

Other Entities Particularly Affected - None

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including:</p> <ul style="list-style-type: none"> a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources 	<p>The regulation will not alter projected costs or fees for the agency; the change reflects the Board’s acknowledgement of a growing trend in educational programs designating veterinary technician degrees as veterinary “nursing” degrees.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>None</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>The regulatory change will facilitate persons with “veterinary nurse” degrees to apply to the Board for the same credentials as if they held a “veterinary technician” degree.</p>

Impact on Localities

<p>Projected costs, savings, fees or revenues resulting from the regulatory change.</p>	<p>None</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>None</p>

Impact on Other Entities

<p>Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.</p>	<p>Persons with “veterinary nurse” degrees or who practiced as veterinary nurses before applying to Virginia for licensure</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that:</p> <ul style="list-style-type: none"> 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>Thus far, the Board has received less than 5 applications from persons with a “veterinary nurse” designation. However, as more programs adopt that title, this number is likely to increase.</p>
<p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to:</p> <ul style="list-style-type: none"> a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements. 	<p>There will be no additional costs for affected individuals or entities; anyone with a “veterinary nurse” degree will be treated as holding a “veterinary technician” degree for purposes of registration as a veterinary technician through examination or endorsement.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>The regulatory change will facilitate the Board’s ability to recognize veterinary nursing programs</p>

	as equivalent to the veterinary technician programs and continue to license qualified persons as veterinary technicians.
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Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

The Board has adopted a guidance document (150-27) acknowledging that the American Veterinary Medical Association (AVMA) has stated that it will recognize a veterinary nurse as equivalent to a veterinary technician in its [AVMA policy on veterinary technology](#). Because of this, the Virginia Board of Veterinary Medicine will interpret the requirement for a degree in veterinary technology in 18 VAC 150-20-115(A)(1) and 18 VAC 150-20-121(3) to include a degree in veterinary nursing from an AVMA accredited program.

Since a guidance document is not enforceable and would likely not be read by an applicant looking at requirements for licensure in Virginia, the Board believes it is necessary to amend regulations for licensure by examination and endorsement to clarify its position relative to acceptance of a veterinary nurse degree or credential. The proposed regulation is more inclusive and less intrusive than the current regulation.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

There is no regulatory flexibility; Section 54.1-3806 of the Virginia Code grants the Board the authority to promulgate regulations establishing requirements for issuance of a license to practice as a veterinary technician.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

As required by § 2.2-4011 of the Code of Virginia, 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: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Board of Veterinary Medicine is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Elaine Yeatts, 9960 Mayland Drive, Suite 300, Richmond, VA 23233; phone (804) 367-4688; fax (804) 527-4434; Elaine.yeatts@dhp.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
20-115		<i>Establishes requirements for licensure by examination as a veterinary technician</i>	Subsection A is amended to allow applicants who have received a degree in <u>veterinary nursing</u> from a college or school accredited by the AVMA or the CVMA to satisfy the degree requirement in subsection A(1). Subsection A(2)(b) adds that a <u>veterinary nursing degree</u> is an acceptable indication for the required official copy of

			<p>an applicant's school or college transcript. Subsection A(2)(c) adds that an applicant must include verification that the applicant is in good standing by each board in another state or jurisdiction from which the applicant holds a license, certification, or registration to practice veterinary technology or <u>veterinary nursing</u>. The three changes made to Subsection A authorize the Board to accept a veterinary nursing degrees as equivalent to veterinary technology degrees for credentialing purposes.</p>
20-121		<p><i>Establishes requirements for licensure by endorsement for veterinary technicians</i></p>	<p>Section 121 is amended to authorize licensure by endorsement for an applicant who held a credential as a <u>veterinary nurse</u> in another jurisdiction. Requirements (2) and (3) from this Section add the language "or veterinary nurse" and "or veterinary nursing" to reflect the Board's acknowledgement of veterinary nursing degrees as equivalent to veterinary technology degrees for licensure by endorsement purposes.</p>