



Fast Track Regulation Agency Background Document

Agency name	Board of Veterinary Medicine, Department of Health Professions
Virginia Administrative Code (VAC) citation	18 VAC 150-20
Regulation title	Regulations Governing the Practice of Veterinary Medicine
Action title	Rabies certificate
Document preparation date	4/15/05

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The proposed action would amend the requirements in Section 195 for records created or maintained by a veterinarian to specify that for all initial rabies inoculations, the rabies certificate should contain the following language: “An animal is not considered immunized for least 28 days after the initial or primary vaccination is administered.”

Statement of agency final 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 3, 2005, the Board of Veterinary Medicine took action to amend 18 VAC 150-20-10 et seq., Regulations Governing the Practice of Veterinary Medicine, through the fast-track

regulatory process to require disclosure on the rabies certificate that an animal is not considered immunized for at least 28 days following administration of the initial or primary vaccination.

Legal basis

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

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6) 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 or licensure 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 or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- ...*
- 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 statutory definition of what constitutes the practice of veterinary medicine is found in § 54.1-3800.

§ 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 by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

At its February 3, 2005 meeting, the Virginia Board of Veterinary Medicine discussed a concern raised by the owner of a kitten that had been vaccinated for rabies six days prior to being bitten by an unidentified animal. This owner had not been made aware that it would require 28 days before her kitten's inoculation would be considered by health officials to be effective. She was informed that her kitten would either need to be quarantined for six months or euthanized.

In consideration of the seriousness of rabies and the fact that the general public is most likely unaware of having to wait 28 days before a rabies vaccination is effective, the Board voted unanimously to amend its regulations to ensure that licensees acted on the need to inform clients of the waiting period. It determined that for all initial rabies inoculations, the rabies certificate should contain the following language:

An animal is not considered immunized for least 28 days after the initial or primary vaccination is administered.

The information was drawn from the U.S. Centers for Disease Control's latest recommendation and report relating to rabies in their *Compendium of Animal Rabies Prevention and Control, 2004* under "Control Methods in Domestic and Confined Animals, Pre-exposure Vaccination and Management."

If an owner is unaware of the 28-day waiting period and allows his animal to interact with other persons or animals, both the animal and the general public may be at risk.

Rationale for using fast track process

Please explain why the fast track process is being used to promulgate this regulation.

Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from (1) 10 or more persons, (2) any member of the applicable standing committee of either house of the General Assembly or (3) any member of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection 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 fast-track process is being used to promulgate the amendments to add a regulatory standard for disclosure to consumers about the 28-day waiting period for the effectiveness of a rabies inoculation. Since this is a public health and safety, and since the standard of care should be to notify consumers who bring their animals to a veterinarian for a rabies vaccination of the waiting period, the Board believes the fast-track action is warranted.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

The proposed fast-track action amends requirements for recordkeeping found in 18VAC150-20-195.

The action will add subsection E to require that: An initial rabies certificate for an animal receiving a primary rabies vaccination shall clearly display the following information: *"An animal is not considered immunized for least 28 days after the initial or primary vaccination is administered."*

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 the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

There are no disadvantages to the public of this amendment. By clearly displaying the information about a 28-day waiting period for the rabies vaccination, the public and the animals are clearly better protected. Without the regulation, veterinarians who fail to provide that information or disclosure would not be in violation of a law or regulation. With the fast-track action, there is a clear standard by which to hold a veterinarian accountable. Disclosure of information serves public health and safety.

There are no disadvantages to the agency or the Commonwealth; the proposed regulation will place Board policy in regulation and thereby make it enforceable.

There are no other pertinent matters of interest.

Economic impact

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	The agency will incur some one-time costs (less than \$1,000) for a mailing to the Public Participation Guidelines mailing list. Every effort will be made to incorporate that into anticipated mailings. There are no ongoing expenditures related to this amendment. 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.
Projected cost of the regulation on localities	None
Description of the individuals, businesses or other entities likely to be affected by the regulation	Veterinarians, veterinary technicians and veterinary hospitals may be affected.
Agency’s best estimate of the number of such entities that will be affected	There are 643 veterinary facilities licensed as full-service facilities with the authority to perform surgery. There are 3094 licensed veterinarians and 936 licensed veterinary technicians.
Projected cost of the regulation for affected individuals, businesses, or other entities	There is no projected cost; the additional disclosure may be handwritten, typed or stamped on the certificate.

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.

When this issue was brought to the Board’s attention at its February meeting, it felt there was some urgency to have a policy in place that would require a rabies certificate to clearly state that there was a rabies vaccination was not effective for 28 days. The alternative to the promulgation of a regulation was the adoption of a guidance document, which does inform licensees of the need for such a disclosure and the intent of the Board. The Virginia Veterinary Medical Association has sent notice of the guidance document to members in its monthly publication, and the Board has posted it prominently on its website. However, a guidance document is not enforceable as a rule, so the Board also acted to move forward with a fast-track regulation.

In adopting a change in the rule, the Board believes that it is also reflecting current practice in most veterinary practices. Therefore, the amended rule will not be burdensome to veterinary practices and enhance the safety and health of animals in their care.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

There is no impact on the institution of the family and family stability.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes.

Current section number	Current requirement	Proposed change and rationale
195	n/a	<p>E. An initial rabies certificate for an animal receiving a primary rabies vaccination shall clearly display the following information: <i>“An animal is not considered immunized for least 28 days after the initial or primary vaccination is administered.”</i></p> <p>The amendment is self-explanatory. Only the initial vaccination requires a 28-day waiting period for effectiveness, so the statement would not be necessary for subsequent booster vaccinations.</p>