



## Final Regulation Agency Background Document

<b>Agency name</b>	Board of Veterinary Medicine, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation</b>	18VAC150-20
<b>Regulation title</b>	Regulations Governing the Practice of Veterinary Medicine
<b>Action title</b>	Periodic review
<b>Date this document prepared</b>	11/19/08 (Revised 8/19/09)

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.*

As a result of the periodic review of regulations, the following changes are being proposed: 1) expansion of the criteria for cases that may be delegated to an agency subordinate for informal fact-finding; 2) expansion of courses and the provider list for approved continuing education; 3) acceptance of accreditation by the Canadian Veterinary Medical Association for technician education; 4) additional alternative for meeting requirements for licensure by endorsement for veterinary technicians; 5) additional grounds for disciplinary action; 6) clarification of rules for delegation of veterinary tasks to unlicensed persons; 7) establishment of rules for injection of microchips; 8) allowing biennial inventory to be performed by licensee other than the veterinarian-in-charge; 9) clarification of regulations for drug storage, recordkeeping and reconstitution; 10) clarification of minimal requirements for a patient record; and 11) definition of companion animals that includes horses.

Since the publication of the proposed regulation, the following changes were made: 1)

Two definitions were added to ensure that animal shelters and pounds have the same ability to care for animals in their possession as persons who have a property right in an animal; 2) Section 30 was amended to allow licensees who do relief work to either carry the license with them or, if they prefer, to post it at the establishment; 3) In Section 121, the requirement that the applicant for licensure by endorsement must have taken the examination within the past four years was eliminated; 4) In section 130, language which had required tech students to be duly enrolled and in good standing in their program (currently in subsection A 1) was inadvertently omitted in the amended section (A 3) and has been inserted; 5) The provision on release of patient records was clarified to specify that the request must come from the owner, a law enforcement entity or a health regulatory agency (like the local health department); 6) In section 172, an amendment will allow veterinarians to delegate supragingival (above the gum line) scaling but the regulation would continue to prohibit unlicensed assistants from scaling subgingivally (below the gum line); 7) An amendment will include pounds in the establishments that may microchip animals while in their possession; and 8) The proposed requirement to include the first and last name of the client was deleted because there was confusion about its meaning.

**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 November 6, 2008, the Board of Veterinary Medicine adopted final amendments to 18VAC150-20-10 et seq., Regulations Governing the Practice of Veterinary Medicine, in order to implement recommendations from its periodic review of regulations and to respond to public comment on proposed regulations.

On August 19, 2009, the Board convened to respond to a request from the Governor to retain the provision that failure to report animal abuse as grounds for unprofessional conduct. The provision in section 140, which had been deleted in final adoption, was reinserted to retain the language originally proposed.

**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 numbers, 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.*

**Chapter 24 of Title 54.1** establishes the general powers and duties of health regulatory boards including the responsibility of the Board of Veterinary Medicine to promulgate regulations, levy fees, and administer a licensure and renewal program.

*§ 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.*
4. *To establish schedules for renewals of registration, certification and licensure.*
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 and Chapter 25 of this title.*

**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.*

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The Board’s purpose is to update and clarify its regulations pursuant to recommendations from the Regulatory/Legislative Committee, which conducted a periodic review of regulations in accordance with Executive Order 36 (2006).

The changes proposed are intended to protect animals in the Commonwealth. For example, clarity about practice in a preceptorship or delegation of tasks to unlicensed persons is necessary to ensure that the health and safety of animals being treated by such persons is overseen by persons licensed as competent to practice. Other provisions of this section are clarified as necessary for licensees to understand their responsibilities. While release of records is not a requirement of law, any failure to provide records that causes harm to an animal should not be acceptable. The health and safety of animals treated at licensed veterinary establishments are dependent on maintenance of standards set by the Board, so the Board has amended those standards as necessary.

**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.*

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Following its review of all provisions of Chapter 20, the Board has proposed revisions to the following sections:

### **Section 10 – Definitions**

Issues have been raised relating to several words and terms defined in this section. A “preceptorship” is defined but questions about its meaning and interpretation have come from educational programs. Additionally, the term “externship” is used by schools but not defined in regulation. Terms newly used in the regulations have also been defined, including “animal shelter” and “companion animal” for whom individual records must be maintained.

### **Section 15 - Criteria for delegation of informal fact-finding proceedings to an agency subordinate**

In order to more fully utilize the agency subordinate process, the Board adopted an expansion of the types of cases that may be delegated to an agency subordinate. The criteria for a subordinate was expanded to include former members of the Board and other persons qualified to conduct administrative proceedings for this profession.

### **Section 30. Posting of licenses; accuracy of address**

Questions have been raised by inspectors and licensees about the posting requirement for ambulatory practices and for relief veterinarians who do not regularly practice at an establishment. Guidance suggested by one of the inspectors was incorporated into the regulation for ease of compliance and consistency in inspections.

### **Section 70. Licensure renewal requirements**

To further specify the renewal requirements, the Board amended rules stating that practice with an expired or lapsed license may be grounds for disciplinary action and that failure to receive a renewal notice does not relieve the licensee of his responsibility to renew and maintain a current license.

Requests to expand the acceptable topics of continuing education were considered to add courses that enhance safety for patients and staff, such as OSHA courses or medical recordkeeping. In the listing of approved sponsors, the Board has added the American Association of Veterinary State Boards and has deleted Board approval of individual sponsors to rely on the approval of courses by sponsors listed in regulation.

### **Section 115. Requirements for licensure by examination as a veterinary technician**

The Board responded to a request from the Canadian Veterinary Medicine Association to approve its accreditation of veterinary technician programs.

### **Section 120. Requirements for licensure by endorsement as a veterinarian or veterinary technician**

To clarify the requirements for each profession, the Board has separated the endorsement requirements for veterinary technicians into a new section, 121. It has added the option of either graduation from an AVMA-accredited program or passage of the national examination for

technicians who have been licensed or certified in another state and have been practicing for at least two of the past four years.

### **Section 130. Requirements for practical training in a preceptorship**

In this section and in the Definition section, there was further clarification on the supervision of preceptees and the duties that can be performed. The regulation has specified that a preceptee can perform only those services for which he has received adequate instruction by the educational program. The regulations also added the word extern or externships that occur within an education program.

### **Section 140. Unprofessional conduct.**

Additional grounds for unprofessional conduct that the Board include: 1) misrepresentation or falsification of information on an application for licensure or employment or a renewal form; 2) delegation of duties to persons who are not properly trained or authorized to perform such duties; 3) failure to report animal abuse; and 4) failure to release a patient record when requested by the owner, law enforcement or a health agency.

### **Section 172. Delegation of duties to unlicensed veterinary personnel.**

Both professional organizations in Virginia (VVMA and VALVT) recommended some limitations on the delegation of injections by unlicensed personnel to possibly exclude anesthetic or chemotherapy drugs and to exclude such invasive tasks as the placement of IV catheters. It has also been clarified that the veterinarian remains responsible for the health and safety of the animals treated by persons under his supervision.

The Board has added language on alternative treatments for animals, such as chiropractic, massage, acupuncture and physical therapy to state that it must be by an order issued by a licensed veterinarian.

### **Section 180. Requirements to be registered as a veterinary establishment.**

The Board added the language of Guidance Document 150-2 that states microchips must be implanted within a licensed veterinary establishment, but make some exceptions for animal shelters and pounds.

### **Section 181. Requirements for veterinarian-in-charge.**

An amendment was adopted to allow a VIC to delegate the biennial inventory to another licensee, provided the VIC remains responsible for and signed off on the inventory for the facility. It was also clarified that it is the responsibility of the VIC to ensure that the facility maintains and current and valid license.

### **Section 190. Requirements for drug storage, dispensing, destruction, and records for all establishments, full service and restricted**

To address confusion about the meaning “working stock” of Schedule II drugs, the Board eliminated the terminology and specified that all scheduled drugs must be kept secured with access to licensees but not to unlicensed personnel. Additional clarification of the drug record requirements is recommended by inspectors to ensure that the full name of the client is included, as well as the animal identification by species. Diversion of drugs places the public at risk, so laws and regulations on security and access are necessary for public protection.

**Section 195. Recordkeeping.**

The Board has incorporated language in Guidance Document 150-9 on medical records into the regulation and on the release of records to a client.

**Section 200. Standards for veterinary establishments.**

An amendment was added to specify the board’s policy of requiring separate facility permits for separate practices that share the same location.

**Section 210. Revocation or suspension of a veterinary establishment permit.**

Denial of access to an establishment to conduct an inspection is currently grounds to revoke, suspend or take disciplinary action against a permit; the Board added denial of access during an investigation.

**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 to the public would be to provide greater specificity about the responsibility of the veterinarians for the facility and unlicensed persons who work with the practice. There is also an advantage to more specificity on drug security; lack of proper control of drugs can sometimes lead to diversion which puts the public at risk. There are no disadvantages.
  - 2) There are no advantages or disadvantages to the agency or the Commonwealth.
  - 3) There is no other pertinent matter of interest related to this action.

**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.*

The following changes were made to the text of the proposed regulation since publication:

**Section 10. Definitions.**

Two definitions were added to ensure that animal shelters and pounds have the same ability to care for animals in their possession as persons who have a property right in an animal. The

definition for “owner” and a definition for “pound” were taken from § 3.1-796.66 for consistency with Chapter 27.4 of that title setting for Comprehensive Animal Laws.

#### Section 30. Posting of licenses

This section was amended to allow licensees who do relief work to either carry the license with them or, if they prefer, to post it at the establishment.

#### Section 121. Requirements for licensure by endorsement for veterinary technicians.

At the request of a commenter, the Board amended the proposed regulation to eliminate the requirement that the applicant for licensure by endorsement must have taken the examination within the past four years (if they do not have a degree from an AVMA-accredited program).

#### Section 130. Requirements for practical training in a preceptorship or externship.

The intent of the amendments to this section is to allow a veterinary technician preceptee to perform duties constituting the practice of veterinary technology during the course of their instruction (they had previously only been allowed to practice during the last year of school). Language which had required tech students to be duly enrolled and in good standing in their program (currently in subsection A 1) was inadvertently omitted in the amended section (A 3) and has been inserted.

#### Section 140. Unprofessional conduct.

The provision on release of patient records was clarified to specify that the request must come from the owner, a law enforcement entity or a health regulatory agency (like the local health department).

#### Section 172. Delegation of duties

In response to comment on the proposed regulations, the Board amended this section to allow veterinarians to delegate supragingival (above the gum line) scaling but the regulation would continue to prohibit unlicensed assistants from scaling subgingivally (below the gum line).

#### Section 180. Requirements to be registered as a veterinary establishment.

An amendment to subsection A 1 will include pounds in the establishments that may microchip animals while in their possession (proposed language only mentioned animal shelters).

#### Section 190. Requirements for...record for all establishments.

The proposed requirement to include the first and last name of the client was deleted because there was confusion about its meaning. The name of the client and the identification of the animal must still be included in the patient record.

### 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 4, 2008. Public comment was requested for a 60-day period ending October 3, 2008. A Public Hearing

before the Board of Veterinary Medicine was held on August 20, 2008. There were no comments received at the public hearing.

The following comment was received in writing or electronically:

Dr. Caroline Nothwanger – Disagrees with limitation on dental scaling by unlicensed assistants.

Dr. Robin Knopp – Disagrees with limitation on dental scaling by unlicensed assistants; current prohibition on subgingival root planing and extractions of single-rooted teeth by assistants sufficient.

***Board response: The Board agreed with the comment and amended the regulation to specify that veterinarians could delegate supragingival scaling to unlicensed assistants; the Board does not agree that assistants should be allowed to do subgingival scaling because of the risk of harm to the animal.***

Dr. Jane Casey –

- 1) Disagrees with limitation on dental scaling by unlicensed assistants; scaling always under direct supervision and checked by the veterinarian.
- 2) Stating that animal shelters may inject animals with microchips while in their possession is confusing; animal shelters and other groups are microchipping at the time of adoption and at clinics they hold.

***Board response: The Board added pounds to the entities that are allowed to microchip animals while in their possession; otherwise microchipping is a veterinary act and must be performed in a veterinary establishment.***

Dr. David Smith - Disagrees with limitation on dental scaling by unlicensed assistants; would result in increased costs and time under anesthesia.

***Board response: See above.***

Dr. Andrew Silverstone - Disagrees with limitation on dental scaling by unlicensed assistants; would be a higher standard than for human patients.

***Board response: See above. Dr. Silverstone is incorrect about a higher standard. Dental assistants are not allowed to perform dental scaling of any type.***

Dr. Constance Pozniak – Expresses disagreement about limitations on the practice of unlicensed assistants; the degree of competency cannot be measured by a license. The supervising veterinarian has responsibility for the competency of personnel performing various tasks, rather than relying on paper credentials.

***Board response: The Board concurs that the supervising veterinarian is responsible for the performance of delegated tasks and has added a specific provision in subsection E of section 172.***



Dawn Smith, RVT – Requests amendments to proposed regulations for licensure of veterinary technicians by endorsement to allow someone to be licensed who did not graduate from an AVMA-accredited technician program and who did not take the national examination within the past four years.

***Board response: The Board concurred with the comment and amended the regulation accordingly.***

Corena Knicely, LVT – Comments that unlicensed assistants may be competent to perform certain tasks but are not as knowledgeable as someone who has completed a AVMA-accredited program, passed an examination and is licensed. Agrees with the proposed regulation on licensure by endorsement.

***Board response: The Board concurred with the comment.***

Amanda Sontag, LVT (for the Va. Association of Licensed Veterinary Technicians) – Comments that licensure by endorsement for technicians should be amended to require graduation from a AVMA or CVMA accredited school and passage of a board-approved national examination within four years immediately preceding application. There should not be a choice between the two options. LVT's coming from other states should be held to same standard as those licensed by Virginia.

***Board response: The Board appreciates the position of the VALVT, but the endorsement provision also requires evidence of clinical practice in another state as a licensed vet tech, so there is evidence of competency in addition to graduation from an accredited program or passage of the board-approved examination.***

Dr. George Siemering recommends:

- 1) That the veterinarian be allowed to delegate any duties that do not require discretion (any tasks that do not involve decision-making); and
- 2) That “discretion” be listed in the definitions section as the ability to make one’s own decision or the power of free choice.

***Board response: The Board considered the comment but concluded that some listing of delegable duties (those that do not require discretion or decision-making) is helpful to practicing veterinarians who have questions about delegation to unlicensed persons.***

Dr. Mary May – Expresses concern about changes to grounds for unprofessional conduct regulations that might jeopardize patient confidentiality. The new grounds are: 1) Failing to report animal abuse; and 2) Failing to release client records when such failure could result in immediate harm to the animal.

***Board response: The grounds for unprofessional conduct were amended to specify to whom a record can be released. The grounds relating to failure to report animal abuse were retained at the request of the Governor’s office.***

**All changes made in this regulatory action**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections. The changes to the proposed amendments in the final adoption are noted in **BOLD**.*

Current section number	Current requirement	Proposed change and rationale
10	Sets out definitions for words and terms used in this chapter	<p>Several terms are added to the definitions section because</p> <p>A definition of “<i>Animal shelter</i>” is similar to the one in § <a href="#">3.1-796.66</a> of the Code. It is necessary because the term is used in a new regulation on use of microchips.</p> <p>A definition for “<i>Companion animal</i>” is added amended regulations require individual records on companion animals. The definition is similar to the one in § <a href="#">3.1-796.66</a> of the Code for companion animal. The definition is necessary for clarity in the requirements for record-keeping to ensure that licensees know that the Board considers “horses” as companion animals, not economic animals.</p> <p>A definition is added for the “<i>CVMA</i>” as the Canadian Veterinary Medical Association was added as an accrediting body for veterinary or technician education.</p> <p>In the definition of a “preceptorship,” the word “<i>externship</i>” is added and used interchangeably. The definition also specifies that a <i>preceptorship or externship shall be overseen by faculty of the college or program</i>.</p> <p>The definition of “surgery” is amended to delete the word “routine” before tooth extraction, since the definition goes on to specify extractions of single-rooted teeth, which are the only extractions that should be considered “routine.”</p> <p><b>Two definitions were added to ensure that animal shelters and pounds have the same ability to care for animals in their possession as persons who have a property right in an animal. The definition for “owner” and a definition for “pound” were taken from § 3.1-796.66 for consistency with Chapter 27.4 of that title setting for Comprehensive Animal Laws.</b></p>
15	Sets out the criteria for delegation of informal fact-finding proceedings to an agency subordinate	<p>Subsection B is amended to eliminate the restriction on the types of cases that may be delegated. Currently, only those cases that involve failure to satisfy continuing education requirements can be delegated. The amended regulation would allow delegate of cases that do not involve standard of</p>

		<p>care or those that may be recommended by a committee of the board. The “committee of the board” would be the probable cause committee that reviews an investigative file to determine whether probable cause exists to believe a violation may have occurred. At the time that decision is made, a committee could refer a case for a proceeding held by an agency subordinate.</p> <p>An amendment to subsection C would allow former board members as well as current board members to serve as agency subordinates as they do for other boards at DHP.</p>
<p>30</p>	<p>Sets out requirements for posting licenses</p>	<p>An amendment will allow licensees who do relief or temporary work in an establishment to carry a license with them. Ambulatory veterinary practices that do not have an office accessible to the public should carry their licenses and permits in their vehicles. <i>This is a recommendation from inspectors who inspect establishments and find that it is confusing for relief vets or ambulatory practices to know how to “post” their licenses.</i></p> <p><b>This section was amended to allow licensees who do relief work to either carry the license with them or, if they prefer, to post it at the establishment.</b></p>
<p>70</p>	<p>Sets out requirements for renewal of licenses</p>	<p>An amendment in subsection A will clarify that practice with a lapsed license may subject the licensees to disciplinary action and that failure to receive a renewal notice does not relieve the licensee of the responsibility to renew. <i>The amended language does not change the requirements for licensees but is added to make the regulation more clear and specific.</i></p> <p>An amendment in subsection B will allow licensees to use courses that enhance patient safety, such medical recordkeeping or compliance with requirements of the Occupational Health and Safety Administration (OSHA), to be counted for compliance with CE requirements. Currently, only clinical courses relating to the treatment and care of patients can be counted, but the Board sees disciplinary cases in which faculty or incomplete recordkeeping or OSHA violations can endanger patients.</p> <p>A 2<sup>nd</sup> amendment to subsection B will eliminate the board-approval process for continuing education sponsors and will add an organization or entity approved by the Registry of Approved Continuing Education of the American Association of Veterinary State Boards (AAVSB). The Board does not currently approve sponsors, except by regulation, and does not have the resources to review and approve continuing education.</p>

		A 3 <sup>rd</sup> amendment in subsection B will clarify that the exemption from CE for the first renewal is only intended to be applicable to those who are initially licensed by examination, and thereby, presumed to be more current in their knowledge and skills having just completed an educational program and passed a national examination.
115	Sets out the requirements for licensure by examination for technicians	Adds the CVMA as an accrediting body for technology programs to allow persons who were trained in Canada to become licensed.
120	Sets out the requirements for licensure by endorsement as a veterinarian	Eliminates the references to veterinary technicians, since a new section is proposed to apply to that type of licensee.
New section 121	Sets out the requirements for licensure by endorsement as a veterinary technician	<p>Currently, regulations allow the Board to waive passage of the board-approved examinations, but there is no provision to allow waiver of a degree from an accredited program. That is not an issue for veterinarians because all educational programs are currently accredited, but there are some veterinary technology programs that are not or were not at the time an applicant was first licensed or registered in another state. Therefore, the new language in subsection 121 will give the Board the discretion to license a veterinary technician based on a degree in veterinary technology from a college or school accredited by the AVMA or the CVMA <u>or</u> passage of a board-approved national board examination for veterinary technology with a score acceptable to the board.</p> <p><b>At the request of a commenter, the Board amended the proposed regulation to eliminate the requirement that the applicant for licensure by endorsement must have taken the examination within the past four years (if they do not have a degree from an AVMA-accredited program). The Board retains the requirement of clinical practice for two of the past four years, so there is some assurance of minimal competency in the practice requirement.</b></p>
130	Sets our requirements for practical training	<p>The terms “extern” or “externship” are added for clarity because some programs use those terms for a preceptee or preceptorship.</p> <p>The deletion of the veterinary technology programs in subsection A is intended to facilitate distance learning for those programs. In a veterinary program, the preceptorship occurs in the final academic year or after the requisite coursework has been completed. In a distance-learning technology program, the preceptorship in an establishment may occur throughout the program as aspects of practice and academic courses are completed. The amendments to subdivisions 2 and 3 clarify that all preceptees or externs can</p>

		<p>only perform those duties for which they have had adequate instruction by the college or program.</p> <p><b>The intent of the amendments to this section is to allow a veterinary technician preceptee to perform duties constituting the practice of veterinary technology during the course of their instruction (they had previously only been allowed to practice during the last year of school). Language which had required tech students to be duly enrolled and in good standing in their program (currently in subsection A 1) was inadvertently omitted in the amended section (A 3) and has been inserted.</b></p>
140	Sets out grounds for possible disciplinary action for unprofessional conduct	<p>It is currently unprofessional conduct to allow unlicensed persons to perform acts restricted to veterinary medicine; an amendment would add that it is unprofessional to delegate tasks to persons who are not properly trained or authorized to perform such tasks.</p> <p>Two additional ground have been included in section 140:  <i>13. Misrepresenting or falsifying information on an application or renewal form.</i>  <i>14. Failing to release client records when requested.</i></p> <p>These provisions were recommended by the periodic review to address actual situations in which the Board did not have clear grounds on which to base a charge of unprofessional conduct.</p> <p><b>The Board modified the provision on release of patient records to specify that the request must come from the owner, a law enforcement entity or a health regulatory agency (like the local health department).</b></p>
172	Sets out those duties that may be delegated to a properly trained assistant	<p>Amendments are intended to clarify the appropriate tasks that may be delegated:</p> <p>1) While injection of schedule VI is permissible, the Board felt it necessary to specify that injections involving anesthetic or chemotherapy drugs or the placement of IV catheters cannot be delegated. Those tasks carry a much higher risk of possible harm to an animal than the administration of a rabies shot or similar injection and should not be performed by an unlicensed assistant.</p> <p>2) While polishing of teeth by assistants is acceptable, dental scaling (below the gum line) is not because that may be invasive and risky to the animal.</p> <p><b>In response to comment on the proposed regulations, the Board amended this section to allow veterinarians to delegate supragingival (above the</b></p>

		<p><b>gum line) scaling but the regulation would continue to prohibit unlicensed assistants from scaling subgingivally (below the gum line).</b></p> <p>The current regulation states that delegated acts must be under the “direction and supervision” of the veterinarian, but the term that is used and defined in regulation is “immediate and direct supervision,” so section 172 was amended for consistency with the terminology as defined.</p> <p>Section E is added to clarify that the veterinarian who delegated tasks to an assistant remains responsible for the duties being delegated and remains responsible for the health and safety of the animal. Additionally, subsection D addresses an issue that is often presented to board members and/or staff, relating to animal massage or physical therapy. The amended rule does allow for delegation by a veterinarian to persons qualified by training and experience by an order from the veterinarian.</p>
180	Sets out requirements for a veterinary establishment	<p>An amendment states in regulation the Board’s current interpretation found in a guidance document that the injection of a microchip for identification purposes can only be performed in a veterinary establishment, except personnel of animal shelters may inject animals while in their possession.</p> <p><b>An amendment to subsection A 1 will include pounds in the establishments that may microchip animals while in their possession (proposed language only mentioned animal shelters).</b></p>
181	Sets out the requirements for a veterinarian-in-charge	<p>1) An amendment to subsection A will allow the performance of the biennial inventory to be delegated to another licensee, provided the veterinarian-in-charge signs the inventory and remains responsible for its content and accuracy. Since the veterinarian-in-charge may not be the licensee who is the primary practitioner at the establishment, it may be more feasible for the inventory to be performed by a licensee, including a veterinary technician, who is more familiar with the drug inventory. However, the accuracy and content of the inventory remains the VIC’s responsibility.</p> <p>2) The Board has added to the responsibility of the VIC to ensure that the establishment maintains a current and valid permit.</p>
190	Sets out the requirements for drugs at an establishment	<p>Subsection A references compliance with state and federal laws and specifically lists several federal Code cites; an amendment will include the Drug Control Act found in the Code of Virginia.</p> <p>Subsection B states the requirement for safety closure on containers; an amendment will specify that a client request for non-safety packaging must be documented in the patient</p>

		<p>record. The documentation requirement is similar to that for a pharmacy.</p> <p>Subsection C on labeling of prescription currently requires inclusion of the client name; an amendment will specify first and last name.</p> <p><b>The proposed requirement to include the first and last name of the client was deleted because there was confusion about its meaning. The name of the client and the identification of the animal must still be included in the patient record.</b></p> <p>Subsection D currently requires that all drugs be maintained in a “secured” manner. Inspectors report that there is a lot of confusion about what that means, so the Board intends to specify that all Schedule II through V drugs should be maintained under lock, but to allow the veterinary technician access to the full stock of those drugs. There are many drugs in Schedules III and IV that are addictive, and even some in Schedule V, that are subject to diversion. By maintaining those drugs in the veterinary establishment in a locked cabinet or room, there will be less opportunity for unlicensed persons or the public to obtain the drugs for illicit purposes.</p> <p>An amendment to subsection E will specify that drug destruction must be done in accordance with instructions from the DEA; there should be no option to do otherwise.</p> <p>Amendments to subsection H are suggested by inspectors to clarify that original invoices of drug orders should be maintained and the actual date of receipt of the drugs should be notes.</p> <p>A new subsection J is added to set out rules for veterinary establishments that want to perform bulk reconstitution of injectables, bulk compounding, or prepackaging of drugs. The rules are similar to those for a pharmacy performing the same acts and include requirements for expiration of the drug, labeling and recordkeeping.</p>
195	Sets out requirements for recordkeeping	<p>Subsection A is amended to list minimum requirements for a patient record, including:</p> <ol style="list-style-type: none"> <li>1. Presenting complaint/reason for contact;</li> <li>2. Physical examination findings, if appropriate;</li> <li>3. Tests performed and results;</li> <li>4. Procedures performed/treatment given and results; and</li> <li>5. Drugs (and their dosages) administered, dispensed or prescribed.</li> </ol> <p>Board members agree on the basic elements of a patient</p>

		record and have set a minimal standard. Additional elements may be necessary to adequately record the treatment and care of a patient.
200	Sets out the standards for veterinary establishments	<p>There is an amendment to clarify the requirement to have documentation that shows radiology is performed in-house or the establishment has a contract for outside services to obtain diagnostic-quality radiographs.</p> <p>Subsection C is added to specify in regulation the current policy of the board that a separate facility permit is required for separate practices operating out of a shared location. Occasionally, a specialty practice or practices will co-locate with a general animal hospital or other facility. They are separate practices with a separate stock of drugs, separate VIC, and separate employees; therefore, the position of the Board has been that each requires a license.</p>
210	Sets out violations that may result in disciplinary action by the Board	Currently, refusal to allow inspectors access to an establishment may constitute grounds for disciplinary action; the amendment would add refusal to allow investigators access.

**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.*

During its review of the board’s regulations, staff of the board and the members of the Regulatory/Legislative Committee reviewed each provision of Chapter 20 in accordance with Executive Order 36 (2006). The purpose was to determine whether there was alternative language that could be adopted that would state the regulations more clearly or whether there were other provisions that would make compliance easier.

In accordance with Executive Order 36 and the Administrative Process Act, the Board has conducted a review of Chapter 20, Regulations Governing the Practice of Veterinary Medicine. A Notice of Periodic Review of Regulations was published in the *Register of Regulations* on June 26, 2006 and sent to the PPG mailing list with a request for comment until July 26, 2006.



During the review of regulations, comments were received from the Virginia Association of Licensed Veterinary Technicians, requesting an amendment to the definition of “immediate and direct supervision” to allow a technician to care for an animal for 60 hours after the veterinarian had seen the animal and entered an order (the current rule is 36 hours). The VALVT also requested: 1) the addition of hours in practice management, OSHA training and recordkeeping as acceptable for continuing education; 2) no amendment to the requirement for licensure to allow technicians who have not Virginia requirements to be licensed; 3) a prohibition on unlicensed personnel administering injections, especially anesthetic or chemotherapy drugs; 4) additional duties for licensed vet techs, to include diagnostic imaging such as ultrasound and performance of duties as home health “nurses.” The Virginia Veterinary Medical Association concurred with the comments from the VALVT, except for an extension from 36 to 60 hours for care by a vet tech without the animal being seen by the veterinarian.

An individual veterinary technician requested that the Board consider modifying its rules on endorsement of technicians to allow the waiver of Virginia requirements for persons who have been practicing in another state.

All interested parties participated in the discussion of regulations at meetings of the Legislative/Regulatory Committee as each regulation and guidance document was reviewed. Many of the regulatory changes were adopted at the suggestion of interested parties who participated in the discussions.

### 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.*

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There is no impact on the family.