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Proposed Regulation Agency Background Document

Agency name	Board of Veterinary Medicine, Department of Health Professions
Virginia Administrative Code (VAC) citation(s)	18VAC150-20-10 et seq.
Regulation title(s)	Regulations Governing the Practice of Veterinary Medicine
Action title	Periodic review changes
Date this document prepared	3/17/16

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

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Pursuant to a periodic review of regulations, the Board proposes to amend regulations to organize requirements for greater clarity, update the descriptions and requirements for veterinary establishments consistent with current practices, and specify rules in accordance with Board interpretation for ease of compliance. Amendments will make licensure by endorsement less burdensome, ensure greater accountability and security for prescription drugs in the interest of public safety, and respond to public comment about the need for more informed consent in the performance of surgery and the use of preceptees in a veterinary establishment.

Acronyms and Definitions

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

DVM = Doctor of Veterinary Medicine

LVT = Licensed Veterinary Technician

VIC = Veterinarian-in-charge

Legal basis

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

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

§ 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 (§ 2.2-4000 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...

The specific authority of the Board relating to practical training for students of veterinary medicine is found in:

§ 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.*

Authority to regulate the professions of veterinarian, veterinary technician and equine dental technician is found in Chapter 38 of Title 54.1 of the Code of Virginia.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

Issues relating to informed consent, practice by preceptees and the accountability of supervising veterinarians, drug security, responsibilities of a veterinarian-in-charge, and standards for veterinary establishments have been addressed during the periodic review and in the proposed amendments in this action. Concerns about patient health and safety in veterinary care and about the lack of security for prescription drugs were the major foci of the review and the regulatory language that was drafted by the Committee and adopted by the Board. The goal of the planned action is to update and clarify rules in such a manner to address the concerns expressed by members of the public and the issues identified by Department inspectors and board members through the inspection and the disciplinary process.

Substance

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

The Board intends to amend the following sections:

18VAC150-10: Definitions are added, deleted, or modified to update terminology used in regulation.

18VAC150-70: Requirements for licensure renewal are amended to clarify that falsification of compliance with continuing education may subject the licensee to disciplinary action.

18VAC150-110: Amendments are proposed to reorganize the requirements for licensure by examination; there are no new requirements proposed.

18VAC150-115: Amendments are proposed to specify the examination acceptable to the Board and clarify the Board's authority to deny licensure for acts that constitute unprofessional conduct.

18VAC150-120: Requirements for licensure by endorsement for a veterinarian are amended to eliminate the need for an applicant to meet all the requirements for licensure by examination, so the endorsement process will be less onerous. Provisions for attestation of reading the laws and regulations and having committed no acts that would constitute unprofessional conduct are added for consistency with licensure by examination and for public safety. Other amendments are clarifying.

18VAC150-121: Requirements for licensure by endorsement for veterinary technicians are amended similarly to provisions for veterinarians.

18VAC150-130: Requirements for practical training in a preceptorship or externship are amended to: 1) specify that the supervising veterinarian must be in the operatory when a preceptee is performing or assisting in surgery; 2) that a veterinarian must disclose to owners when there is a preceptee working in the establishment; and 3) that the supervising veterinarian remains responsible for the care and treatment of the patient.

18VAC150-140: Regulations stating causes for unprofessional conduct are amended for clarification of certain provisions and to add a cause for action in the failure to submit evidence

of correction resulting from a violation noted in an inspection within 14 days unless an extension has been granted.

18VAC150-172: The delegation of duties to an unlicensed assistant is amended to specify that an assistant cannot be delegated the induction of sedation or anesthesia, and to restrict monitoring of a sedated patient, unless a licensee remains on premises. Other amendments clarify current provisions.

18VAC150-173: A new section is proposed on informed consent for surgery to ensure that an owner is aware of the risks, benefits and alternatives; there is an exception to the informed consent when there is an emergency and a delay would likely result in imminent harm to the patient.

18VAC150-180: Regulations for veterinary establishments are amended to change the categories from full service or restricted service to stationery or ambulatory to be more descriptive and consistent with current practice.

18VAC150-181: Requirements for the veterinarian-in-charge of an establishment are amended to clarify that the VIC must be regularly on-site as often as necessary to provide oversight for patient safety and compliance with law and regulation. A new subsection is proposed to incorporate current language about patient records upon sale or closure of a practice (in Section 195) and to add a notification to the Board about the location of records and disposition of scheduled drugs.

18VAC150-185: The requirements for renewal of an establishment permit are amended to clarify that practicing on an expired permit may subject the permit holder or licensee to disciplinary action.

18VAC150-190: Requirements for drug storage, dispensing, destruction and records are amended to incorporate recommendations for strengthening the security and integrity of prescription drugs. Amendments are proposed for veterinary establishments consistent with other types of establishment in which prescription drugs are stored and dispensed. Those amendments will include: 1) clarification that only the veterinarian or licensed vet tech has access to Schedule II through V drugs; 2) specification about the storage in a securely locked cabinet or safe that is not easily movable; 3) provision to allow Schedule II through V drugs that are in direct possession of licensed personnel and necessary for use during business hours to be maintained outside of a locked container; 4) provision that all general and working stock and prescriptions dispensed but not delivered are securely stored after business hours; 5) allowance for prescriptions that have been dispensed to be maintained in a place not accessible to the public and deliverable to an owner by an unlicensed person; 6) more specificity about the process to follow if there is a loss or theft of drugs; 7) more specificity about refrigerated drugs and their security; 8) requirements for inventories and maintenance of records, including drug invoices; and 9) provisions for records of drug distribution if a limited or ambulatory practice uses the facilities of another veterinary establishment.

18VAC150-195: Amendments to the recordkeeping requirements will incorporate provisions related to records that are currently found in other sections. In addition, there is some more specific requirement for the content of the record.

18VAC150-20-200: The current terminology for “full-service” establishments is amended to “stationary” establishments to distinguish them from those that are mobile. Requirements are re-organized for ease of understanding and compliance and the specific listing of laboratory services is eliminated. A subsection is added with requirements to ensure that patients receive appropriate care at establishments that are open to the public 24 hours a day; a disclosure is

required if an establishment is not open 24 hours a day and the establishment does not have continuous staffing. All stationary establishments must provide continuity of care when transferring a patient to another facility.

18VAC150-20-201: The current terminology for “large animal” and “small animal” establishments is amendment to “ambulatory” in the categories of “agricultural/equine” and “house call/proceduralist.” Requirements for such establishments are consistent with current requirements and with the services provided.

18VAC-150-220: Requirements for continuing education for equine dental technicians are amended for consistency with other regulants of the Board in the conditions for granting exemptions or exceptions and the time frame for provision of continuing education documentation.

The Board may propose other amendments as a result of public comment or in the review of its draft language resulting from the periodic review of regulations.

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) The primary advantage to the public is additional requirements for informed consent, more security for drug stocks, and more specificity about patient records. There are no disadvantages to the public;

2) There are no advantages and disadvantages to the agency or the Commonwealth; and

3) There are no other pertinent matters of interest to the regulated community, government officials, and the public. 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.*” The Board is authorized under Virginia Code §§ 54.1-2400, 54.1-3804, and 54.1-3805 to “regulate, inspect and register all establishments and premises where veterinary medicine is practiced” and to establish qualifications, renewal schedules, and fees for licensure.

Therefore, the requirements for licensure of veterinarians and veterinary technicians and for registration and regulation of veterinary establishments in the Commonwealth and the specific requirements associated therein are a foreseeable result of the statutes requiring the Board to license and regulate veterinary practice. Any restraint on competition that results from these regulations are in accord with the General Assembly’s policy as articulated in § 54.1-100 and is necessary for the preservation of the health, safety, and welfare of the public and will further the public’s need for assurances of professional ability and competence.”

There are no changes to the requirements for accreditation of veterinary schools or veterinary technician programs or for the passage of the national examination for licensure. Accreditation by the AVMA is the

current requirement and has been since at least 1987. Likewise, passage of the national examination has been required for licensure for many years. Most veterinary medical licensing boards in the U. S. and Canada have been requiring passage of the examination of the National Board of Veterinary Medical Examiners (NBVME) since the mid 1960's. The clinical competency test was added in the 1970's. The Board's regulations allow for acceptance *any other substantially equivalent national examination as approved by the board*, but there is no national examination other than those given by NBVME.

Requirements more restrictive than federal

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

There are no applicable federal requirements.

Localities particularly affected

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

There are no localities particularly affected.

Public participation

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

In addition to any other comments, the Board of Veterinary Medicine is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so via the Regulatory Townhall website, www.townhall.virginia.gov, or by mail to Elaine Yeatts at Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233 or elaine.yeatts@dhp.virginia.gov or by fax to (804) 527-4434. Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at: <http://www.townhall.virginia.gov>. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

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

Economic impact

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

<p>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; b) The agency will incur no additional costs for mailings to the Public Participation Guidelines mailing lists, conducting a public hearing, and sending notice of final regulations to regulated entities. Since most mailings to the PPG list are handled electronically, there is very little cost involved. Every effort will be made to incorporate those into anticipated mailings and Board meetings already scheduled. There are no on-going expenditures.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>None</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>Licensed veterinarians, veterinary technicians and veterinary establishments.</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: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>There are 4042 veterinarians and 1930 veterinary technicians currently licensed and 22 equine dental technicians registered in Virginia. Almost all are employees of veterinary practices which would be considered small businesses. There are 329 veterinary establishments with restricted licenses, and 770 establishments with full licenses.</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 including: a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence</p>	<p>The Board does not believe there are any additional costs associated with these proposed amendments.</p>

of the proposed regulatory changes or new regulations.	
Beneficial impact the regulation is designed to produce.	The beneficial impact will be less onerous requirements for licensure by endorsement, more specificity about drug security, and a requirement for informed consent before surgery, all of which ultimately benefits the consumer of veterinary services.

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 less burdensome alternatives that meet the essential purpose of the action. Regulations are being amended to make licensure by endorsement less burdensome, to ensure greater accountability and security for prescription drugs in the interest of public safety, and to respond to public comment about the need for more informed consent in the performance of surgery and the use of preceptees in a veterinary establishment.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

There are no alternative regulatory methods, such as reporting requirements or performance standards.

Public comment

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

The NOIRA for regulatory review was published on November 16, 2015 with comment until December 16, 2015. There were 4 comments received on the Regulatory Townhall:

Commenter	Comment	Agency response
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Phillip Sullivan	Public can be misled about the use of title “veterinary technician” by persons without a license. Misdemeanor offense in other states.	The Board does not “sanction” for unlicensed practice but reports may be given to Commonwealth’s attorneys for prosecution. Section 54.1-111 provides: <i>Any person who willfully engages in any unlawful act enumerated in this section shall be guilty of a Class 1 misdemeanor. The third or any subsequent conviction for violating this section during a 36-month period shall constitute a Class 6 felony.</i> A veterinarian who improperly utilizes an unlicensed person in his practice may be sanctioned. The Board has also added a definition for veterinary technician so improper use of the term can be a violation for an establishment.
J. L. Bayer, DVM	All invasive procedures should be performed by licensed veterinarians or veterinary technicians; use of assistants should be a violation of practice act.	Section 172 is being amended to clarify those duties that may be delegated to an assistant; they do not include insertion of catheters, or other invasive procedures.
Constance Pozniak, DVM	Use of non-certified assistants to insert catheters, etc. creates a liability for patients.	Same response as above.
Tonya Higgins, DVM	Asked a question about the change from full-service and restricted establishments to stationary and ambulatory.	The proposed regulation should more clearly distinguish the types of facilities. It is likely the Board will develop a Q and A to assist licensees in understanding the revised terminology.

There was a comment from Dr. Kallay on several regulatory sections; it was sent by email:

Section 172: Wants to be sure that the changes do not preclude assistants from assisting the licensed technician or veterinarian in the induction or monitoring of an animal under sedation or anesthesia.

Board response: *Amendments state that the assistant may not be delegated induction, but the assistant may monitor an animal provided the licensee remains on premises.*

Section 173: Has questions about the informed consent requirement and whether it would apply to spays and neuters.

Board response: *The informed consent is required for any type of surgery; there is no requirement that the owner understands the risks, benefits, & alternatives, only that the doctor provide information that a reasonably prudent practitioner would tell an owner.*

Section 190: Suggests that the requirement for a lockable container for refrigerated drugs be changed to requiring someone to notice if they are no longer present.

Board response: *The Board does not believe such a requirement is practical or enforceable. A small lockable container can be secured inside a refrigerator, so the security requirement is not unreasonable.*

Section 190: Suggests allowing drugs expected to be picked up by a consumer to be stored out of reach by general public but not in locked cabinet.

Board response: *Amendments to section 190 will allow prescriptions that have been dispensed to be available for pick-up outside of the secured cabinet or safe.*

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

There is no impact on the family.

Detail of changes

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

In 1998, 18VAC150-20-10 et seq. was amended to specify that veterinary facilities must register with the Board and be issued a permit. Therefore, the word “permit” has been used consistently in regulation since that time. Counsel to the Board has recently advised that it does not have statutory authority to issue a “permit.” Therefore, all references to “permit” have been changed in this action to “registration.”

Current section number	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
10	Sets out definitions for words and terms used in the regulations	<p>Terms that are added include: “AAVSB”, “DEA”, “Preceptee or extern”, “Private animal shelter”, “Public animal shelter”, and “Veterinary technician”. All are either newly used in the amended regulation or needed to be defined for more clarity in their usage.</p> <p>Terms that are deleted include: “Animal shelter”, “Full service establishment”, “Pound”, “Restricted service establishment”. All have been replaced with updated terminology and are no longer used in this chapter.</p> <p>Terms that are amended are: “Immediate and direct supervision” (Direct is deleted because it implies that the veterinarian is present at all times when delegation occurs, which is inconsistent with the meaning.) and “Veterinary establishment” (No longer defines as a fixed or mobile practice; terms proposed are “stationary or ambulatory”).</p>
30	Sets out requirements for posting of licenses and registrations	Amended to delete “permit” and insert the word “registration”
70	Sets out the requirements for licensure renewal	Subsection B is amended to: 1) allow a licensee 14 days (rather than 10) to provide all supporting documentation of completion of CE and allows an extension of that time to be granted by the Board; 2) specify that falsification of completion of CE on the renewal form may subject the

		<p>licensee to disciplinary action.</p> <p><i>The change for provision of documentation is less onerous for licensee; the specification about falsification is explanatory as the Board already has disciplinary authority for falsification on application forms.</i></p>
75	Sets out requirements for reinstatement of lapsed license	The amendment in subsection B is editorial to include an applicable section of the chapter in addition to the Code section.
100	Sets out the required fees	An amendment changes “permit” to “registration” for the veterinary establishment fee
110	Sets out requirements for licensure by examination for veterinarians	Amendments to section 110 are intended to reorganize the subsection more logically and clearly. For graduates of foreign schools, the Program for the Assessment of Veterinary Education Experience of the AAVSB is added as an option for verification of education.
115	Sets out requirements for licensure by examination for veterinary technicians	Amendments to section 115 will: 1) specify the licensure examination currently required; 2) add the provision that the applicant has not committed an act that would constitute a violation of the Code; and 3) clarify that a new application and fee is required if the application is not completed within one year.
120	Sets out requirements for licensure by endorsement as a veterinarian	<p>Amendments to subsection A will: 1) clarify what is meant by holding a license “in good standing”; 2) clarify that the clinical practice for two out of the past four years must be “immediately preceding application”; 3) delete the regulation to have met all requirements for licensure by examination; 4) add evidence of 30 hours of CE during the preceding 4 years; 5) require the applicant to sign a statement that he has read and will abide by laws and regulations; and 6) require that the applicant not have committed acts that would constitute a violation.</p> <p><i>Elimination of regulation to have met all requirements for initial licensure will make licensure by endorsement less burdensome and more efficient for applicants from other states who will be relieved of having to obtain a transcript and exam scores to provide to the Board. While the Board will have no actual proof that the veterinarian graduated from an accredited school and passed the national exam, the consistency of licensure requirements among all states makes it virtually certain that the applicant has met those qualifications. Additionally, the Board is assured of minimal competency by the requirement that the license is unrestricted, that the applicant has been in active practice, and that he has completed hours of continuing education. The requirement for familiarity with laws and regulations is consistent with requirements for other applicants for licensure for this and other boards.</i></p>
121	Sets out requirements for licensure by endorsement for veterinary technicians	The amendments to section 121 are similar to those for veterinarians with the intent of more clarity.
130	Sets out requirements for practical training in a	An amendment to subsection B will require that whenever a preceptee or extern is performing surgery, either

	<p>preceptorship or externship</p>	<p>assisted or unassisted, the supervising veterinarian must be in the operatory.</p> <p><i>The amendment is consistent with best practices for supervising a preceptee and is incorporated into regulation for protection of animals and assurance for owners.</i></p> <p>A new subsection C is proposed to require a supervising veterinarian to inform owners that he or she has a preceptee in the practice. Such information can be provided by signage or by inclusion in an informed consent form.</p> <p><i>The purpose of the amendment is to respond to owners who want to know who is working on their animals. Veterinarians would then have the opportunity to explain the role of the preceptee, and the owner would have the option of choosing who is involved in the care of their animal.</i></p> <p>Subsection D is added to explicitly state that the veterinarian or veterinary technician who supervises a preceptee or extern remains responsible for the care and treatment of the patient.</p> <p><i>The provision is not a new standard; supervisors have always been held accountable for the care and treatment of the animal, but the specificity of the regulation is for emphasis and clarity.</i></p>
<p>135</p>	<p>Sets out requirements for voluntary practice by out-of-state practitioners</p>	<p>An amendment will eliminate the requirement for notarization of the statement from the nonprofit sponsoring organization.</p> <p><i>The requirement is an unnecessary expense for the nonprofit.</i></p>
<p>140</p>	<p>Establishes grounds for a finding of unprofessional conduct as referenced in § 54.1-3807.</p>	<p>An amendment to #12 adds a qualifying provision to refusal to release a copy of a valid prescription upon request. The veterinarian is relieved of that requirement if there are medical reasons documented in the patient record and he would not dispense the medication from his own practice.</p> <p><i>There are a few times when the veterinarian deems that the owner should not have a copy of a prescription, such as he may believe the owner is using the drug for a different purpose. He can't refuse to release the prescription just to prevent the owner from purchasing the drug at a pharmacy rather than through his practice.</i></p> <p>#15 is amended to clarify that a <i>copy</i> of the patient record must be released upon request, rather than the record itself which belongs to the practitioner.</p>

		<p>#16 is amended to clarify that committing fraud, etc. in dealing with the public is also grounds for disciplinary action.</p> <p>#17 is added to address the need for a specific rule on responding to a violation noted on an inspection report; establishments are currently required to offer a plan of correction but there is no definitive time frame for compliance.</p>
<p>172</p>	<p>Establishes the delegation responsibilities of a veterinarian</p>	<p>Subsection B is amended for more clarity and specificity about delegation of sedation or anesthesia; currently regulations specify injections involving anesthetic drugs cannot be delegated but the intent is that assistants cannot induce sedation or anesthesia by any means. The monitoring of a sedated patient can be delegated to an assistant, but only if a licensee remains on the premises to handle any emergency that may arise from the sedation.</p> <p>Subsection C is amended to delete the phrase “include but are not limited to the following.” <i>The intent of the listing in this subsection has been to specify the duties that can be deleted; the “but not limited to” language has led some vegetarians to believe they can delegate professional duties that require a license to perform to their unlicensed assistants.</i></p> <p>No. 7 under subsection C is amended to clarify the Board’s meaning of “prepping for surgery” – specifically the clipping and scrubbing preparation, rather than induction of anesthesia.</p> <p>Subsection E was amended to add “laser therapy” since that is a modality offered for animals under an order by the veterinarian.</p>
<p>173</p>	<p>New section on informed consent – this section is also added in Action 4277, which is in the final stage.</p>	<p>Subsection A specifies the general content of informed consent, including the risks, benefits and alternatives of the recommended surgery. It requires that the consent be obtained from the owner and documented in the patient record. It does not require written consent, but does require that the veterinarian explain the surgery in a manner that a reasonably prudent practitioner would tell an owner.</p> <p><i>The provision in subsection A is similar to requirements of the Board of Medicine for its practitioners. The expectation for informed consent is that an owner will have prior knowledge about what the surgery involves and the possible risks associated with it. The “reasonably prudent” language is included because there is not an expectation that a veterinarian explain the surgery in medical terms that only another practitioner would understand.</i></p> <p>Subsection B specifies that an exception for the informed</p>

		<p>consent may be made in an emergency situation when a delay would likely result in harm to the patient.</p> <p><i>Again, the language is taken from Medicine regulation and is necessary to protect patients and veterinarians in such situations.</i></p> <p>Subsection C specifies that if a veterinary student is to perform surgery, the informed consent must so state.</p> <p><i>The provision is included to assure consumers that they will be informed prior to a surgery if a student or preceptee is to perform the procedure.</i></p>
<p>180</p>	<p>Sets requirements to be registered as a veterinary establishment</p>	<p>The amendments change the terminology from full service or restricted to stationary or ambulatory to be more descriptive and current with veterinary practices.</p> <p>The deletion of “pounds” and description of shelters as “public or private” is consistent with changes in the animal laws made a few years ago.</p> <p>The addition of #3 in subsection is consistent with current Board policy which requires an establishment to be re-inspected if there is an addition or renovation that involves changes to the structure or composition of a surgery room. Registration holders are currently informed of the policy as such modifications change the basis for approval of an establishment registration.</p> <p>The amendment in subsection B clarifies that the VIC may not be the person who actually pays for the establishment fee; he may be an employee of the establishment which has another owner. It is his responsibility, however, as the VIC to ensure that the fees have been paid.</p>
<p>181</p>	<p>Establishes the requirements for the veterinarian-in-charge (VIC)</p>	<p>Subsection A is amended to eliminate the specific schedule for which the VIC must be on-site at the establishment. In its place, the regulation specifies that he must be on-site “as necessary” to provide oversight for patient safety and compliance with law and regulation.</p> <p><i>The Board acknowledges that oversight may vary by practice with some VIC’s needing to be on-site on a daily basis. The “standard” of no less than monthly led some VIC’s to believe that was the Board’s expectation. In fact, the expectation is that the VIC provide whatever oversight is necessary to ensure safety and compliance. Reports of unsafe practices or non-compliance may provide evidence that the VIC has failed in that obligation.</i></p> <p>Subsection C is added to consolidate the responsibilities of the VIC. Responsibility for transfer of records, as prescribed in § 54.1-2405 is currently in section 195. In addition to the Code requirement for notification to the public, etc., the Board is requiring that the VIC provide</p>

		information about the location of patient records and disposition of drugs. <i>The regulation addresses situations in which a practice may close without notification to the Board and consumers are unaware of where they can get their records, and the Board is unaware of what happened to the controlled substances.</i>
185	Sets out the requirements for renewal of an establishment permit	Subsection B is amended to emphasize that practicing veterinary medicine in an establishment with an expired permit may subject the licensee or permit holder to disciplinary action. <i>Discipline may currently be imposed but the amendment provides more specific language.</i>

<p>190</p>	<p>Sets out the requirements for drug storage, dispensing, destruction and records</p>	<p>In subsection A, the Code cite § 54.1-3303 is added because it establishes the statutory requirement for a bona fide practitioner-patient relationship for the prescribing and dispensing of controlled substances.</p> <p>Subsection C is amended to require some additional information in the patient record – specifically the “first and last” name of the owner and the “species” of the animal. <i>The additional information is necessary for a complete record and is typically included in patient records currently.</i></p> <p>Subsection D is amended to:</p> <ol style="list-style-type: none"> 1) Clarify that Schedule II through V drugs must be in securely locked cabinet or safe that is not easily movable. <i>The current rule requires the drugs to be under lock at all times, but it is not specific about the safe or cabinet not being easily moved. Board inspectors do not regard a tackle box with a lock on it that someone could pick up and walk out the door to satisfy the requirement for drugs to be secured (currently in subsection D)</i> 2) Allow the establishment to have a working stock of drugs in direct possession of a licensee so he does not have to go into the safe or cabinet to obtain a drug needed while he is treating a patient. The working stock can only be those drugs necessary to be used during a normal business day or 24 hours, whichever is less. <i>The working stock will make practice less burdensome.</i> 3) Specify that all Schedule II through V drugs must be secured when the business is closed. 4) Allow prescriptions that have been dispensed and prepared for delivery to be maintained in an area not readily accessible to the public but not necessarily under lock. Those dispensed prescriptions may be delivered by a non-licensed person. <i>The allowance in regulation is in response to comment and is less restrictive for veterinarians and establishments. It is similar to the allowance in pharmacies where a prescription kept behind a counter may be delivered to a customer for purchase.</i> 5) Specify that a report of theft or loss also has to go to the Board of Pharmacy (as required by the Drug Control Act). The format of a report is included so the VIC, or his designee, knows how and to whom to report. If the VIC is unable to determine the exact kind and quantity, he must immediately take an inventory of all Schedule II through V drugs. <i>Proposed regulations follow guidance the Board currently has in 150-16: Protocol to follow upon discovery of a loss or theft of drugs.</i> <p>Subsection E is amended to delete “burning in an incinerator” as a method for drug destruction since it is not</p>
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		<p>the only means of destruction.</p> <p>Subsection F is amended to only require refrigeration at the facility if there are drugs being stored that require refrigeration. The refrigerator must either have a lock or drug stored in a container that can be secured to the refrigerator. <i>Refrigerated drugs must be secured from theft and diversion the same as unrefrigerated drugs.</i></p> <p>Subsection G is amended to clarify that expired drugs should be removed from working stock and cannot be administered or dispensed.</p> <p>Subsection H is amended to change the retention of drug records from two to three years. <i>The current inspection schedule for veterinary establishments is once every 3 years.</i></p> <p>Subsection J is added to provide consistency in taking inventories of drug stocks and in compliance with the Drug Control Act. <i>Requirements for separate invoices and records for Schedule II drugs, for continuous inventories, and monthly reconciliation are consistent with those for pharmacies and with the Drug Control Act.</i></p> <p>Subsection L is added to set the requirement for recordkeeping when a veterinary practice uses the facilities of another establishment and drugs are involved. The rules are intended to provide a clear explanation of which drugs and from which stock of drugs did the distribution occur.</p>
195	Sets the requirements for recordkeeping in a veterinary practice	Failure to maintain a complete patient record is problematic for an owner and his animal and for the veterinarian who may be the subject of an investigation. Since this has been an issue identified by the Board, amendments were made to the recordkeeping section to specify the content of a complete record – rather than a general statement that it should include “pertinent medical data.” Basic information such as the patient’s name and

		<p>his owner, the date of contact, and identification of the treating veterinarian is included. The qualifier “if appropriate” is removed from the physical examination findings because members of the Board stated that there would always be some finding from examination of the animal.</p> <p>There is more specificity about the inclusion of information about drugs dispensed, administered or prescribed, including the lot and manufacturer of vaccines in case there is a recall on these.</p> <p>The requirements for radiographs are currently found in section 200 but moved to the recordkeeping section.</p> <p>Finally, any specific instructions for discharge or referrals should be noted.</p>
200	Sets out the requirements for veterinary establishment	<p>This section is amended to include all the requirements for a <u>stationary</u> establishment. Amendments are made to reorganize for more clarity and to remove some of the outdated and unnecessary specific requirements. The only new provision in subsection A is a requirement for individual radiation exposure badges for each employee exposed to radiographs, if performed in-house, which is a basic safety requirement for all such personnel.</p> <p>Subsection B is added to specify the level of care that must be provided for establishments that are open 24 hours a day and intended to provide emergency critical care and hospitalization; such practices must have radiology/imaging and laboratory services on-site rather than contracted to another facility that would not be available on a 24-hour basis. They are also required to have licensed personnel on-premises at all times.</p> <p>For establishments not open 24 hours a day, they must have licensed personnel on-premises during advertised hours of operation and must disclose that they don’t have continuous staffing – see § 54.1-3806.1.</p> <p>All stationary establishments are responsible for continuity of care when a patient is being transferred to another establishment.</p> <p>Subsection D is a current requirement; it must be restated in section 200 because that section is now separated into two sections.</p>
201	A new section is carved out of section 200 to delineate the standards for an ambulatory veterinary establishment	<p>Subsection A: Previously, the term used in regulation was “large animal” establishment, but the more descriptive and accurate term now used is “agricultural/equine” ambulatory practice. To simplify the regulation, the amendments state that this type of practice must meet the same requirements for laboratory, radiology, and minimum equipment as a stationary establishment, with the</p>

		<p>exception of equipment for assisted ventilation.</p> <p>Subsection B sets out the requirements for a “small animal” practice, now called a “house call/proceduralist” establishment. In addition to health care in the home of an owner, amendments allow this type of practice to occur in another licensed establishment or, if the practitioner-patient relationship is already established, at the location of the animal. <i>The intent of the amendment is to allow a veterinarian who regularly cares for a pet at the owner’s home to go to “doggie daycare” if necessary to care for that animal. It is not intended to allow a veterinarian to “set up practice” at a commercial facility or other location that is not a licensed establishment. Proceduralists are specialty veterinarians (cardiologists, oncologists, etc.) who are called in for consultation on a case. They may not have a stationary establishment but practice instead in an ambulatory practice.</i></p> <p>House/call proceduralist establishments must meet the requirements for laboratory, radiology and minimum equipment, with the exception of equipment for assisted ventilation. The major distinction is that these establishments are not equipped for surgery and must perform any surgery in a permitted establishment with a surgical suite.</p> <p>Subsection C sets out the requirements for a mobile service establishment, which is basically a “full-service” establishment on wheels. It must meet all requirements appropriate to the services provided. If, for example, surgeries are performed, it must have a surgical suite that meets the requirements of a stationary establishment.</p> <p>Subsection D provides the current requirement for separate permits for separate practices that share the same location. The word “establishment” is substituted for the word “facility” in this and other places in the chapter.</p>
210	Sets out the authority for revocation or suspension of a veterinary establishment permit	The amendments are editorial and technical; there are no substantive changes.
220	Sets out requirements for registration as an equine dental technician	Amendments to subsection C are intended to parallel continuing education provisions for the licensed professions under the Board. The days allowed for provision of supporting documentation in an audit are increased from 10 to 14, and the authority for the Board to grant an exemption or extension for completion of continuing education requirements is added.