



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

Agency Name:	Board of Veterinary Medicine, Department of Health Professions
VAC Chapter Number:	18 VAC 150-20-10 et seq.
Regulation Title:	Regulations Governing the Practice of Veterinary Medicine
Action Title:	Periodic review
Date:	10/31/02

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

The Board of Veterinary Medicine has adopted amendments to 18 VAC 150-20-10 et seq. to address issues that have arisen during the periodic review of regulations, to update facility requirements, and to clarify certain provisions that have been confusing or problematic to licensees, especially related to the appropriate delegation of veterinary tasks to licensed technicians or unlicensed assistants.

Changes Made Since the Proposed Stage

Please detail any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication. Please provide citations of the sections of the proposed regulation that have been altered since the proposed stage and a statement of the purpose of each change.

There were no changes made to the text of the proposed regulation since its publication.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

On October 31, 2002 , the Board of Veterinary Medicine adopted final amendments to 18 VAC 150-20-10 et seq., Regulations Governing the Practice of Veterinary Medicine, in order to implement changes and clarifications recommended by the periodic review of regulations. The effective date of the final regulation, which amends the renewal date from March 1 to January 1 of each year, will be no sooner than April 1, 2003.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law

Chapter 24 establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations, levy fees, administer a licensure and renewal program, and discipline regulated professionals.

§ 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.*
7. *To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license which such board has authority to issue for causes enumerated in applicable law and regulations.*
8. *To appoint designees from their membership or immediate staff to coordinate with the Intervention Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.*
9. *To take appropriate disciplinary action for violations of applicable law and regulations.*
10. *To appoint a special conference committee, composed of not less than two members of a health regulatory board, to act in accordance with § 9-6.14:11 upon receipt of information that a practitioner of the appropriate board may be subject to disciplinary action. The special conference committee may (i) exonerate the practitioner; (ii) reinstate the practitioner; (iii) place the practitioner on probation with such terms as it may deem appropriate; (iv) reprimand the practitioner; (v) modify a previous order; and (vi) impose a monetary penalty pursuant to § 54.1-2401. The order of the special conference committee shall become final thirty days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the thirty-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 9-6.14:12, and the action of the committee shall be vacated. This subdivision shall not be construed to affect the authority or procedures of the Boards of Medicine and Nursing pursuant to §§ 54.1-2919 and 54.1-3010.*
11. *To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 9-6.14:12, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 9-6.14:11 shall serve on a panel conducting formal proceedings pursuant to § 9-6.14:12 to consider the same matter.*

12. *To issue inactive licenses and certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of such licenses or certificates.*

The statutory authority for licensure and regulation of veterinarians, veterinary technicians and veterinary practices is found in Chapter 38 of Title 54.1 of the Code of Virginia:

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC540100000380000000000000>

The Office of the Attorney General has certified by letter that the Board has the statutory authority to promulgate the amended regulation and that it comports with applicable state and/or federal law.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the amended regulation is to clarify certain provisions as follows:

- Amendments related to the terminology of animal facilities, veterinary facilities, animal hospitals, or veterinary practices were added to clarify that each establishment is responsible for registering with the Board. For the health, safety and welfare of the animals and their owners, each establishment must be accountable to the Board.
- The amendment to change the renewal cycle to a calendar year is intended to provide a logical time for expiration of a license rather than an arbitrary date of March 1st. It is believed that renewal compliance may improve and late fees may be avoided.
- Amendments to further specify and clarify the duties of the veterinarian-in-charge were adopted to address questions about whether the VIC is always required to practice on-site and concerns about notification to the Board if the VIC leaves the practice and discontinues serving in that role. The purpose is to ensure that there is someone responsible and accountable to the Board for the establishment and for the stock of controlled substances on premises without unduly burdening either the veterinarian or the practice if the discontinuation of the VIC is unexpected or on short notice.
- Amendments are adopted that will set the parameters for delegation of certain tasks by a licensed veterinarian to unlicensed assistants. Those tasks that may be delegated are those that do not require independent judgment and discretion; they are tasks that may be taught on the job and do not require a formal education. Patients are protected by requirements for the veterinarian to remain responsible for any tasks delegated to an unlicensed person.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.

Amendments to regulations will revise certain requirements to address certain issues and the need for clarification of some provisions identified during a periodic review of regulations. Amendments will clarify that the Board registers the veterinary establishment and will further specify the duties and responsibilities of the veterinarian in charge of each practice. To provide guidance for standards of practice, the Board will also set in regulation the delegation of duties to a veterinary technician or unlicensed veterinary personnel.

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the 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 include a sentence to that effect.

The primary advantages to the public of implementing the amended regulations are as follows: a. By determining that dental extractions and closures do not constitute surgery and may be performed by a veterinary technician, the veterinarian may delegate those duties and spend more time on seeing patients and making diagnoses; b. By specifying in regulations the expanded tasks that may be delegated to veterinary assistants, the veterinarian may train additional staff to provide care to animals in his practice. While it could be argued that the treatment and care being delivered by a technician or an assistant rather than by a veterinarian is not the optimum for patients, the availability of persons to deliver that treatment and the access to veterinary care may be enhanced by changes to regulations. Given that veterinarians remain wholly responsible for the animals in their care and for the actions of unlicensed persons in their employ, the public is reasonably protected.

There are no specific disadvantages to the public. As stated above, some consumers of veterinary services are critical of an expansion of the duties for technicians and assistants. In testimony before the Board, many expressed their concern about a diminution in the quality of care, but others, including veterinarians testified that the delegation of tasks to trained assistants was no different from the practice of human medicine.

There are no advantages or disadvantages to the agency; the amended regulation does not impose a new responsibility on the Board and does not involve additional cost or staff time.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

Proposed regulations were published in the Virginia Register of Regulations on August 12, 2002. Public comment was requested for a 60-day period ending October 11, 2002. The following written or email comment has been received:

- Three veterinarians in a practice wrote to support changes to regulations that would allow veterinary technicians to perform dental extractions and suturing of the skin.
- Two veterinary technicians emailed to also support changes to regulations that would allow veterinary technicians to perform dental extractions and suturing of the skin.

The agency appreciated the support from the regulated entities.

A Public Hearing before the Board was held on August 22, 2002, at which time there was no comment on the proposed regulatory changes.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

18 VAC 150-20-10. Definitions.

- Replace the definition of animal facility with a definition of veterinary establishment for consistency with the authority to register “establishments and premises” found in § 54.1-3804 of the Code of Virginia. Throughout the regulation, the term “animal facility” is replaced with the term “veterinary establishment.”
- Amend definition of veterinarian-in-charge to clarify that his responsibilities extend to overseeing compliance with federal and state laws and regulations.
- Revise the definition of surgery to clarify that certain acts do not constitute the practice of surgery and may be delegated to veterinary technicians under direct orders from a veterinarian.

18 VAC 150-20-70. Licensure renewal requirements.

- Revise the schedule of renewal to a calendar year (January 1) rather than the arbitrary date of March 1.

- Eliminate the requirement that continuing education documentation be maintained at the location where the original license is posted and specify that a periodic audit may be conducted to determine compliance. Licensees selected for an audit will be required to provide documentation of CE within 10 days of receiving notification from the Board.

18 VAC 150-20-75. Expired license; reinstatement; practice with an expired or lapsed license not permitted.

- Amend rule to be more specific about the documentation of clinical competency required for reinstatement to include hours of continuing education and other evidence of clinical practice or competency to practice.

18 VAC 150-20-110. Requirements for licensure by examination as a veterinarian.

- Amend the rule on recognition of foreign veterinary education to include other substantially equivalent credentialing bodies in addition to the Educational Commission of Foreign Veterinary Graduates of the AVMA.
- Replace the name of the licensure examination with the current name and include recognition of any other substantially equivalent examination as approved by the board.

18 VAC 150-20-120. Requirements for licensure by endorsement as a veterinarian.

- Provide for amendments similar to those in section 110 for recognition of credentialing bodies and examinations that are substantially equivalent to those specifically recognized in regulation.

18 VAC 150-20-130. Requirements for practical training in a preceptorship.

- Amend the provisions of preceptorship to clarify confusion about when a student may serve in a preceptorship. The preceptorship is intended to serve as a practicum based on the classroom knowledge gained during the educational program and as such, should occur during the last year of training or after an equivalent number of hours have been completed.

18 VAC 150-20-140. Unprofessional conduct.

- Add a provision to specify that failure to provide a copy of a valid prescription to a client may constitute unprofessional conduct.

New Part IV. Standards of Practice.

18 VAC 150-20-171. Specialty practice in a limited setting.

- Exceptions to the requirement to practice veterinary medicine in a registered establishment are set forth in current regulation in 18 VAC 150-20-205 and in the Code

in § 54.1-3804.1. Those provisions have been restated and placed in a new section on Standards of Practice.

18 VAC 150-20-172. Delegation of duties to unlicensed veterinary personnel.

- Add a section to address the issue of delegation of certain duties to unlicensed persons by listing of delegable duties but stating that the list may not be all-inclusive. The duties that may be delegated include the administration under direction and supervision of schedule VI drugs provided the veterinarian takes responsibility for the training of the assistant. This new section also specifies that a veterinarian may delegate duties electronically rather than in person provided he has examined the animal within the previous 36 hours.

18 VAC 150-20-180. Requirements to be registered as an animal facility.

- Clarify that the veterinary establishment is the entity that must be registered.
- Amend subsection on the veterinarian-in-charge to specify his responsibilities including that he must regularly (at least monthly) be on-site at the veterinary establishment for which he is named VIC and must provide oversight to the practice. Add the responsibility for notifying the board immediately if no longer serving as VIC.
- Amend the subsection to clearly state that the VIC remains responsible for the establishment until a new VIC is named or for 5 days, whichever occurs sooner.
- Amend the requirement to allow the application for a change in the VIC to be made 5 days prior to the change (current requirement is 10 days) and to specify that if prior notice was not given, a new permit application must be filed with the Board as soon as possible but no more than 10 days after the change.

18 VAC 150-20-185. Renewal of animal facility permits.

- Revise the renewal schedule for permits to a calendar year renewal rather than March 1 of each year.

18 VAC 150-20-190. Requirements for drug storage, dispensing, destruction, and records for all facilities, full service and restricted.

- Amend the requirement for a biennial inventory on a set date to date that is within two years of the previous inventory; the change complies with current rules of the Drug Enforcement Administration.

18 VAC 150-20-195. Recordkeeping.

- Amend to permit record-keeping on a group of animals in the same litter up to the age of 4 months.
- Add a provision to require notification of clients upon the sale or closure of a veterinary practice for the transfer of patient records in accordance with § 54.1-2405 of the Code.

18 VAC 150-20-200. Standards for facilities.

- Amend to specify that there must be a door to the surgery room rather than just a partition or opening in a small animal practice (such a requirement is not practical in large animal practices).
- Delete certain requirement that may not be essential for every practice - that includes a gas anesthesia machine, an otoscope and an ophthalmoscope.
- Amend to specify that a small animal practice may be conducted in an ambulatory establishment as well as a stationary establishment.

18 VAC 150-20-210. Revocation or suspension of registration certificate.

- Clarify that the grounds for disciplinary action may include any violation of statute or regulation related to the practice of veterinary medicine.
- Specify disciplinary actions other than revocation or suspension that may be taken, such as a fine, probation or reprimand.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which 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.

In its preliminary analysis of the proposed regulatory action, the agency has determined that there is no potential impact on the institution of the family and family stability and no effect on family income.