Virginia Department of Health Professions

Agenda

Virginia Board of Veterinary Medicine
Full Board Meeting

March 15, 2018
Training Room 2
9:00 a.m.

Call to Order – Autumn Halsey, LVT, Board President

- Welcome
- Emergency Egress Procedures

Ordering of Agenda – Ms. Halsey

Public Comment – Ms. Halsey

The Board will receive all public comment related to agenda items at this time. The Board will not receive comment on any regulatory process for which a public comment period has closed or any pending or closed complaint or disciplinary matter.

Approval of Minutes **Pages 3-14**

- October 24, 2017, Full Board Meeting
- January 17, 2018, Conference Call
- February 8, 2018, Public Hearing
- March 1, 2018, Formal Hearing (Case Nos. 174333 & 181624)
- March 1, 2018, Consideration of Possible Resolution (Case No. 170532)
- March 1, 2018, Formal Hearing (Case Nos. 181974 & 183874)

Agency Director's Report - David Brown, D.C.

Presentation on American Association of Veterinary State Boards – James Penrod, AAVSB Executive Director

Legislative/Regulatory Report – Elaine Yeatts **Pages 15-61**

- 2018 Legislative Update
- 2019 Legislation: § 54.1-3807(7) amendment to include license surrender in lieu of disciplinary action
- Faculty and Intern/Resident Licenses – Update
- Petition for Rulemaking – Administration of Drugs by Unlicensed Assistants (action item)
- Prescribing of Opioids
  - Consideration of comments and recommendation from the Regulatory Advisory Panel
  - Adoption of final regulations (Action Item)
- Changes to 18VAC150-20-185: Consideration of amendment to change reinstatement contingent on re-inspection

Discussion Items – Leslie Knachel **Pages 62-81**

- Revision to Guidance Document 150-8 Practicing on Expired License/Registration
- Review of other DHP Boards' telemedicine guidance documents
- 2018 Annual Meeting of the American Association of Veterinary State Boards

President's Report – Ms. Halsey

Board of Health Professions' Report – Mark A. Johnson, DVM

Staff Reports **Pages 82-87**

- Executive Director's Report – **Leslie Knachel**
- Discipline Report and Training – **Amanda Blount**

New Business – Ms. Halsey

Next Meeting – July 23, 2018

Meeting Adjournment – Ms. Halsey

This information is in **DRAFT** form and is subject to change.

VIRGINIA BOARD OF VETERINARY MEDICINE
MINUTES OF FULL BOARD
DEPARTMENT OF HEALTH PROFESSIONS
BOARD ROOM 3
HENRICO, VA
OCTOBER 24, 2017

TIME AND PLACE: The Board of Veterinary Medicine (Board) was called to order at 9:05 a.m., at the Department of Health Professions (DHP), Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room 3, Henrico, Virginia.

PRESIDING OFFICER: Ellen G. Hillyer, D.V.M., President

MEMBERS PRESENT:
Tregel M. Cockburn, D.V.M.
Autumn N. Halsey, L.V.T.
Mark A. Johnson, D.V.M.
Steven B. Karras, D.V.M.
Bayard A. Rucker, III, D.V.M.
Mary Yancey Spencer, J.D., Citizen Member

QUORUM: With seven members of the Board present, a quorum was established.

STAFF PRESENT:
David E. Brown, D.C., Director
Leslie L. Knachel, Executive Director
Amanda E. M. Blount, Deputy Executive Director
Elaine Yeatts, Senior Policy Analyst
Charis Mitchell, Assistant Attorney General, Board Counsel
Carol Stamey, Licensing Operations Manager
Terri Behr – Discipline/Compliance Specialist

OTHERS PRESENT: Robin Schmitz, Virginia Medical Association of Virginia (VVMA)

ORDERING OF AGENDA: No changes were made to the agenda.

PUBLIC COMMENT: No public comment was presented.

APPROVAL OF MINUTES: Dr. Cockburn moved to approve as a block the minutes from the August 24, 2017, Full Board and August 24, 2017 Public Hearing as presented. The motion was seconded and carried.

DIRECTOR'S REPORT: Dr. Brown reported on the following items:

- The agency is developing internal training videos for board members; and
- Additional space had been acquired to move the agency's business operations to the first floor.

LEGISLATIVE/REGULATORY UPDATE:

Regulatory Update
Ms. Yeatts provided an overview of the current Regulatory Actions before the board:

- **Faculty and Intern/Resident License**
  Ms. Yeatts informed the board that no public comment had been received.

  Action: Dr. Rucker moved to adopt the proposed regulations as presented. The motion was seconded and carried.

- **Prescribing of Opioids and Buprenorphine**
  Ms. Yeatts reported that the proposed regulations were in progress with no action required at this time.

- **Periodic Review**
  Ms. Yeatts reported that the regulations had a delayed effective date of 10/25/2017, to allow for changes to the multiple guidance documents.

- **Petition for Rulemaking: Administration of Drugs by Unlicensed Assistants (comment Period 10/16/17 – 11/15/17)**
  Ms. Yeatts informed the Board that a Petition for Rulemaking was in the public comment period and would be addressed at the next board meeting.

DISCUSSION ITEMS:

Guidance Document Updates due to Periodic Review
Ms. Knachel referred the Board to the summary of changes made to the guidance documents as a result of the periodic review. The Board had no additional changes or recommendations.

Action: Ms. Halsey moved to approve as a block the following guidance documents as presented:

- 150-1: Drug Recordkeeping at Shared Facilities;
- 150-3: Preceptorships and Externships for Veterinary Technician Students;
- 150-6: Mobile Facilities Allowed to Change Location Without an Inspection;
- 150-8: Disposition of Cases Involving Practicing on an Expired License or Permit;
- 150-9: Board Motion on Content of a Medical Record;
- 150-11: Guidance for Continuing Education (CE) Audits and Sanctions for Failure to Complete CE;
- 150-12: Administration of Rabies Vaccinations;
- 150-15: Disposition of Routine Inspection Violations;
- 150-16: Protocol to Follow upon Discovery of a Loss or Theft of Drugs;
- 150-19: Position on Delegation of Dental Polishing and Scaling;
- 150-20: Delegation of Duties to an Unlicensed Assistant;
- 150-21: Chiropractic and Acupuncture Care; and
- 150-23: Disposal of Deceased Animals.

The motion was seconded and carried.

Guidance Document of 76-21.2:1: Veterinary Establishment Inspection Report
Ms. Knachel reviewed the changes to the inspection report form that were made as a result of the revised regulations.

Ms. Knachel reported that she will be making a presentation of the regulatory changes to the Virginia Veterinary Medical Association and others as well. Dr. Cockburn requested Ms. Knachel reach out to the Veterinary Hospital Managers Association.

Action: Ms. Halsey moved to accept Guidance Document 76-21.2:1 as amended. The motion was seconded and carried.

Report on American Association of Veterinary State Boards (AAVSB) Annual Meeting
Dr. Karris provided a brief overview of the AAVSB's meeting presentations. He

noted that telemedicine was a frequently discussed topic. He further reported that Ms. Knachel had been re-elected to the Board of Directors. Dr. Karris reported that the next meeting is September 13-15, 2017, in Washington, D.C.

Ms. Yeatts suggested the Board review the Board of Medicine's telemedicine guidance document and consider a guidance document of its own. Staff will add the telemedicine topic to its next agenda for discussion.

PRESIDENT'S REPORT: Dr. Hillyer stated that she did not have a report to present.

BOARD OF HEALTH PROFESSIONS' REPORT: Dr. Johnson presented a brief summary of the Board of Health Professions' activities on anesthesiology assistants, Art Therapy, Sanction Reference Points Training, naturopathy and a new agency logo.

STAFF REPORTS:

Executive Director's Report
Ms. Knachel reviewed licensing statistics, budget information and the recent outreach communication to licensees regarding the effective date of the new regulations.

Discipline Update – Amanda Blount
Ms. Blount provided an overview of the caseload statistics and noted that there had been a significant increase in the number of disciplinary cases.

NEW BUSINESS:

Board Officer Elections
On properly seconded motion by Dr. Hillyer, the Board voted unanimously to elect Ms. Halsey as the new Board President for the 2018 calendar year.

On properly seconded motion by Dr. Hillyer, the Board voted unanimously to elect Dr. Karras as the new Board Vice-President for the 2018 calendar year.

On properly seconded motion by Dr. Hillyer, the Board voted unanimously to elect Dr. Cockburn as the new Board Secretary for the 2018 calendar year.

NEXT MEETING: The next meeting of the board is scheduled for February 8, 2018.

ADJOURNMENT: The meeting adjourned at 10:50 a.m.

Ellen G. Hillyer, D.V.M.
Chair

Date

Leslie L. Knachel, M.P.H
Executive Director

Date

UNAPPROVED DRAFT

VIRGINIA BOARD OF VETERINARY MEDICINE
SPECIAL SESSION – TELEPHONE CONFERENCE CALL
MINUTES
JANUARY 17, 2018

CALL TO ORDER:

Pursuant to § 54.1-2408.1(A) of the Code of Virginia, a telephone conference call of the Virginia Board of Veterinary Medicine was held on January 17, 2018, at 9:03 a.m., at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, to consider a possible summary suspension.

PRESIDING:

Autumn Halsey, L.V.T., Chair

MEMBERS PRESENT:

Tregel Cockburn, D.V.M.
Ellen G. Hillyer, M.P.H., D.V.M.
Steven B. Karras, D.V.M.
Mark A. Johnson, D.V.M.
Bayard A. Rucker, III, D.V.M.
Mary Yancey Spencer, Esquire

QUORUM:

With seven members present, a quorum was established.

STAFF PRESENT:

Leslie L. Knachel, Executive Director
Amanda E. M. Blount, Deputy Executive Director
Terri H. Behr, Discipline/Compliance Specialist
Anne G. Joseph, Deputy Director Administrative Proceedings Division

OTHERS PRESENT:

Charis A. Mitchell, Assistant Attorney General, Board Counsel
Wayne T. Halbleib, Senior Assistant Attorney General

POLL OF MEMBERS:

The Board members were polled as to whether they were able to attend a regular meeting at the offices of the Board in a timely manner for the purpose of hearing evidence for a possible summary suspension. The majority of Board members stated that they would not have been able to attend.

Thomas L. Rohlk, D.V.M.
License No.: 0301-002644
Case Nos.: 174333 & 181624

Mr. Halbleib presented a summary of the evidence in these cases and responded to questions.

CLOSED SESSION:

Upon a motion made by Dr. Karras and properly seconded, the Board voted unanimously to convene a closed meeting pursuant to § 2.2-3711(A)(27) of the Code of Virginia for the purpose of deliberation to reach a decision in the matter regarding Case Nos. 174333 & 181624. Additionally, he moved that Ms. Mitchell, Ms. Knachel, and Ms. Blount attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations.

RECONVENE:

Dr. Karras moved that the Board certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and unanimously passed.

DECISION:

Dr. Cockburn moved that the Board summarily suspend Dr. Rohlk's license to practice veterinary medicine in the Commonwealth of Virginia and schedule him for a formal hearing. Following a second for the motion, a roll call vote was taken. The motion passed unanimously.

ADJOURNMENT:

With all business concluded, the Board adjourned at 9:51 a.m.

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Autumn Halsey, L.V.T., Chair

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Leslie L. Knachel, M.P.H.
Executive Director

BOARD OF VETERINARY MEDICINE
PUBLIC HEARING ON PROPOSED REGULATIONS
DEPARTMENT OF HEALTH PROFESSIONS
FEBRUARY 8, 2018

TIME AND PLACE:	The Public Hearing was called to order at 8:50 a.m. The purpose of the hearing was to receive public comment on the proposed regulations for prescribing opioids.
PRESIDING OFFICER:	Mary Yancey Spencer, J.D., Citizen Member
MEMBERS PRESENT:	Ellen G. Hillyer, DVM
STAFF PRESENT:	Leslie Knachel, Executive Director Carol Stamey, Operations Manager
OTHERS PRESENT:	Nancy Barnett, DVM
PUBLIC COMMENT:	Dr. Barnett presented comment in support of the current draft language regarding 18VAC150-20-174(A)(3).
ADJOURNMENT:	With no further comment received, the hearing adjourned at 9:06 a.m.

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Mary Yancey Spencer, J.D.
Board Member

_____
Date

_____
Leslie L. Knachel, M.P.H
Executive Director

_____
Date

VIRGINIA BOARD OF VETERINARY MEDICINE
FORMAL HEARING MINUTES
DEPARTMENT OF HEALTH PROFESSIONS
BOARD ROOM 2
HENRICO, VA
MARCH 1, 2018

CALL TO ORDER:	The meeting of the Virginia Board of Veterinary Medicine (Board) was called to order at 9:11 a.m., on March 1, 2018, at the Department of Health Professions (DHP), Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room 2, Henrico, Virginia.
PRESIDING OFFICER:	Autumn Halsey, L.V.T., President
MEMBERS PRESENT:	Ellen G. Hillyer, M.P.H., D.V.M. Mark A. Johnson, D.V.M. Steven B. Karras, D.V.M., Vice-President Bayard A. Rucker, III, D.V.M. Mary Yancey Spencer, Esquire
MEMBERS ABSENT:	Tregel Cockburn, D.V.M.
QUORUM:	With six members of the Board present, a quorum was established.
STAFF PRESENT:	Leslie L. Knachel, Executive Director Amanda E. M. Blount, Deputy Executive Director Terri H. Behr, Discipline/Compliance Specialist Natalie Unmussig, Administrative Assistant
BOARD COUNSEL:	Charis A. Mitchell, Assistant Attorney General
COURT REPORTER:	Cherryl J. Maddox, Maddox Reporting Service, Inc.
PARTIES ON BEHALF OF THE COMMONWEALTH:	Anne G. Joseph, Deputy Director, Administrative Proceedings Division
COMMONWEALTH WITNESSES:	Leith D. Ellis, Senior Inspector Andria P. Christian, Senior Investigator
RESPONDENT WITNESSES:	Leanne D. Rohlk
MATTER SCHEDULED:	**Thomas L. Rohlk, D.V.M.** **License No.: 0301-002644** **Case Nos.: 174333 & 181624**

Dr. Rohlk appeared before the Board in accordance with a Notice of Formal Hearing dated January 19, 2018. Dr. Rohlk was not represented by legal counsel. The Board received evidence from the Commonwealth and Dr. Rohlk regarding the allegations in the Notice.

CLOSED SESSION:

Dr. Karras moved that the Board convene a closed meeting pursuant Virginia Code § 2.2-3711(A)(27) for the purpose of deliberation to reach a decision in the matter of **Thomas L. Rohlk, D.V.M.** Additionally, he moved that Ms. Blount, Ms. Knachel, and Ms. Mitchell attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. The motion was seconded and carried unanimously.

RECONVENE:

Dr. Karras moved that the Board certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and carried unanimously.

The Board reconvened in open session pursuant to Virginia Code § 2.2-3712(D).

DECISION:

Dr. Karras moved to accept the Findings of Fact and Conclusions of Law as presented by the Commonwealth, amended by the Board, and read by Ms. Mitchell. The motion was seconded and carried unanimously.

Dr. Johnson moved to issue an Order to revoke Dr. Rohlk's license to practice veterinary medicine in the Commonwealth of Virginia. The motion was seconded and carried unanimously.

ADJOURNMENT:

The Formal Hearing adjourned at 11:34 a.m.

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Autumn Halsey, L.V.T., President

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Leslie L. Knachel, M.P.H., Executive Director

VIRGINIA BOARD OF VETERINARY MEDICINE
CONSIDERATION OF POSSIBLE RESOLUTION OF CASE NO. 170532
DEPARTMENT OF HEALTH PROFESSIONS
BOARD ROOM 2
HENRICO, VA
MARCH 1, 2018
MINUTES

CALL TO ORDER: The meeting of the Virginia Board of Veterinary Medicine was called to order at 12:30 p.m., on March 1, 2018, at the Virginia Department of Health Professions, Perimeter Center, 2nd Floor Conference Center, Board Room 2, 9960 Mayland Drive, Henrico, VA 23233.

PRESIDING: Autumn Halsey, L.V.T., President

MEMBERS PRESENT: Ellen G. Hillyer, M.P.H., D.V.M.
Steven B. Karras, D.V.M., Vice-President
Bayard A. Rucker, III, D.V.M.
Mary Yancey Spencer, Esquire

MEMBERS EXCUSED: Tregel Cockburn, D.V.M.
Mark A. Johnson, D.V.M.

QUORUM: With five members of the Board participating, a quorum was established.

STAFF PRESENT: Leslie L. Knachel, Executive Director
Amanda E. M. Blount, Deputy Executive Director
Terri H. Behr, Discipline/Compliance Specialist

BOARD COUNSEL: Charis A. Mitchell, Assistant Attorney General

CASE NO. 170532: The Board received information from Ms. Blount regarding a Consent Order for possible resolution of Case No. 170532 in lieu of a formal hearing.

CLOSED SESSION: Dr. Karras moved that the Board convene a closed meeting pursuant to Virginia Code § 2.2-3711(A)(27) for the purpose of deliberation to reach a decision in the matter of Case No. 170532. Additionally, he moved that Ms. Mitchell and Ms. Knachel attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. The motion was seconded and carried unanimously.

RECONVENE: Dr. Karras moved that the Board certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under

the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and carried unanimously.

The Board reconvened in open session pursuant to Virginia Code § 2.2-3712(D).

DECISION:

Dr. Hillyer moved that the Board accept the Consent Order for Case No. 170532 in lieu of proceeding with a formal hearing. Following a second, a roll call vote was taken. The motion passed unanimously.

ADJOURNMENT:

The meeting was adjourned at 12:34 p.m.

Autumn Halsey, L.V.T., President

Leslie L. Knachel, M.P.H., Executive Director

Date

Date

VIRGINIA BOARD OF VETERINARY MEDICINE
FORMAL HEARING MINUTES
DEPARTMENT OF HEALTH PROFESSIONS
BOARD ROOM 2
HENRICO, VA
MARCH 1, 2018

CALL TO ORDER:	The meeting of the Virginia Board of Veterinary Medicine (Board) was called to order at 1:01 p.m., on March 1, 2018, at the Department of Health Professions (DHP), Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room 2, Henrico, Virginia.
PRESIDING OFFICER:	Autumn Halsey, L.V.T., President
MEMBERS PRESENT:	Ellen G. Hillyer, M.P.H., D.V.M. Mark A. Johnson, D.V.M. Steven B. Karras, D.V.M., Vice-President Bayard A. Rucker, III, D.V.M. Mary Yancey Spencer, J.D.
MEMBERS ABSENT:	Tregel Cockburn, D.V.M.
QUORUM:	With six members of the Board present, a quorum was established.
STAFF PRESENT:	Leslie L. Knachel, Executive Director Amanda E. M. Blount, Deputy Executive Director Terri H. Behr, Discipline/Compliance Specialist
BOARD COUNSEL:	Charis A. Mitchell, Assistant Attorney General
COURT REPORTER:	Cherryl J. Maddox, Maddox Reporting Service, Inc.
PARTIES ON BEHALF OF THE COMMONWEALTH:	Emily E. Tatum, Adjudication Specialist
COMMONWEALTH WITNESSES:	Joyce S. Johnson, Senior Investigator
RESPONDENT WITNESSES:	None
MATTER SCHEDULED:	**John A. Fabish, D.V.M. Reinstatement Applicant** **Case Nos.: 181974 &183874**

Dr. Fabish appeared before the Board in accordance with a Notice of Formal Hearing dated January 31, 2018. Dr. Fabish was represented by counsel, John A. Conrad,

Esquire. The Board received evidence from the Commonwealth and Mr. Conrad regarding the allegations in the Notice.

CLOSED SESSION:

Dr. Karras moved that the Board convene a closed meeting pursuant to Virginia Code § 2.2-3711(A)(27) for the purpose of deliberation to reach a decision in the matter of **John A. Fabish, D.V.M. Reinstatement Applicant**. Additionally, he moved that Ms. Blount, Ms. Knachel, and Ms. Mitchell attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. The motion was seconded and carried unanimously.

RECONVENE:

Dr. Karras moved that the Board certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. Following a second, a roll call vote was taken. The motion passed unanimously.

The Board reconvened in open session pursuant to Virginia Code § 2.2-3712(D).

DECISION:

Dr. Hillyer moved to accept the Findings of Fact and Conclusions of Law as presented by the Commonwealth, amended by the Board, and read by Ms. Mitchell. The motion was seconded and carried unanimously.

Dr. Hillyer also moved to issue an Order approving Dr. Fabish's license to practice veterinary medicine in the Commonwealth of Virginia with the restriction that Dr. Fabish not be allowed to perform surgery. The motion was seconded and carried by a vote of five to one.

ADJOURNMENT:

The Formal Hearing adjourned at 3:30 p.m.

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Autumn Halsey, L.V.T., President

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Leslie L. Knachel, M.P.H., Executive Director

Board of Veterinary Medicine
Report of the 2018 General Assembly

HB 424 Animal shelters; administration of Schedule VI biological products.

Chief patron: Levine

Summary as passed House:

Animal shelters; vaccinations; administration of biological products. Authorizes the operator or custodian of a public animal shelter to vaccinate animals that are confined in such shelter to prevent the risk of communicable diseases. The bill also provides that a public or private animal shelter may purchase, possess, and administer certain Schedule VI biological products for the purpose of preventing, controlling, and treating certain communicable diseases that failure to control would result in transmission to the animal population in the shelter and may administer such biological products only pursuant to written protocols.

HB 875 Veterinarians; compounding of drugs.

Chief patron: Orrock

Summary as introduced:

Veterinarians; compounding of drugs. Increases the quantity, from a 72-hour supply to a seven-day supply, of a compounded drug that a veterinarian may dispense to the owner of a companion animal for which the veterinarian is providing treatment.

HB 1173 Controlled substances; limits on prescriptions containing opioids.

Chief patron: Pillion

Summary as introduced:

Limits on prescription of controlled substances containing opioids. Eliminates the surgical or invasive procedure treatment exception to the requirement that a prescriber request certain information from the Prescription Monitoring Program (PMP) when initiating a new course of treatment that includes prescribing opioids for a human patient to last more than seven days. Under current law, a prescriber is not required to request certain information from the PMP for opioid prescriptions of up to 14 days to a patient as part of treatment for a surgical or invasive procedure. The bill has an expiration date of July 1, 2022. This bill is identical to SB 632.

HB 1303 Prescribing controlled substances; veterinarian-client-patient relationship.

Chief patron: Garrett

Summary as passed House:

Prescribing controlled substances; veterinarian-client-patient relationship. Provides that a veterinarian shall not prescribe medication unless a bona fide veterinarian-client-patient relationship exists and establishes the requirements for a bona fide veterinarian-client-patient relationship.

HB 1440 Schedule I and Schedule II drugs; adds various drugs to lists.

Chief patron: Garrett

Summary as introduced:

Schedule I and Schedule II drugs. Adds MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine) to Schedule I of the Drug Control Act and Dronabinol [(-)-delta-9-*trans* tetrahydrocannabinol] in an oral solution in a drug product approved for marketing by the U.S. Food and Drug Administration to Schedule II of the Drug Control Act and removes naldemedine from Schedule II of the Drug Control Act.

HB 1556 Prescription Monitoring Program; adds controlled substances included in Schedule V and naloxone.

Chief patron: Pillion

Summary as introduced:

Prescription Monitoring Program; covered substances. Adds controlled substances included in Schedule V for which a prescription is required and naloxone to the list of covered substances the dispensing of which must be reported to the Prescription Monitoring Program.

SB 20 Regulatory reduction pilot program; Department of Planning and Budget to implement.

Chief patron: Chase

Summary as passed Senate:

Department of Planning and Budget; regulatory reduction pilot program; report. Directs the Department of Planning and Budget (the Department), under the supervision of the Secretary of Finance (the Secretary), to administer a three-year regulatory reduction pilot program aimed at reducing by 25 percent the regulations and regulatory requirements, as defined in the bill, of the Department of Professional and Occupational Regulation and the Department of Criminal Justice Services by July 1, 2021. The bill requires the Secretary to report annually to the Speaker of the House and the Chairman of the Senate Rules Committee no later than October 1, 2019, and October 1, 2020, on the progress of the regulatory reduction pilot program. The bill also requires the Secretary to report by August 15, 2021, to the Speaker of the House and the Chairman of the Senate Rules Committee (i) the progress towards identifying the 25 percent reduction goal, (ii) recommendations for expanding the program to other agencies, and (iii) any additional information the Secretary determines may be helpful to support the General Assembly's regulatory reduction and reform efforts. The bill provides that if, by October 1, 2021, the program has achieved less than a 25 percent total reduction in regulations and regulatory requirements

across both pilot agencies, the Secretary shall report on the feasibility and effectiveness of implementing a 2-for-1 regulatory budget providing that for every one new regulatory requirement, two existing regulatory requirements of equivalent or greater burden must be streamlined, repealed, or replaced for a period not to exceed three years. Lastly, the bill directs all executive branch agencies subject to the Administrative Process Act (§ 2.2-4000 et seq.) to develop a baseline regulatory catalog and report such catalog data to the Department, which shall then track and report on the extent to which agencies comply with existing requirements to periodically review all regulations every four years. The provisions of the bill are contingent on funding in a general appropriation act.

SB 226 Prescription Monitoring Program; veterinarians.

Chief patron: Stanley

Summary as passed Senate:

Prescription Monitoring Program; veterinarians. Requires veterinarians who dispense controlled substances to report certain information about the animal and the owner of the animal to the Prescription Monitoring Program (PMP). The bill requires veterinarians to register with the PMP and, when issuing a prescription to an animal for opiates that will last more than seven days, to request certain information from the Director of the Department of Health Professions regarding both the animal and the owner of the animal.

SB 258 Subpoenas; issuance by Director of Department of Health Professions or his designee.

Chief patron: Petersen

Summary as passed Senate:

Department of Health Professions; subpoenas. Provides that a subpoena issued by the Director of the Department of Health Professions or his designee may be delivered by (i) any person authorized to serve process under § 8.01-293, (ii) investigative personnel appointed by the Director, (iii) registered or certified mail or by equivalent commercial parcel delivery service, or (iv) email or facsimile if requested to do so by the recipient. The bill provides that upon failure of any person to comply with a subpoena, the Director may request that the Attorney General or the attorney for the Commonwealth for the jurisdiction in which the recipient of the subpoena resides, is found, or transacts business seek enforcement of the subpoena.

SB 726 CBD oil and THC-A oil; certification for use, dispensing.

Chief patron: Dunnavant

Summary as passed Senate:

CBD oil and THC-A oil; certification for use; dispensing. Provides that a practitioner may issue a written certification for the use of cannabidiol oil or THC-A oil for the treatment or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use. Under current law, a practitioner may only issue such certification for the treatment or to alleviate the

symptoms of intractable epilepsy. This bill is a recommendation of the Joint Commission on Health Care. This bill incorporates SB 597, SB 788, and SB 795.

SB 728 Prescription Monitoring Program; prescriber and dispenser patterns, annual review, report.

Chief patron: Dunnavant

Summary as passed Senate:

Prescription Monitoring Program; prescriber and dispenser patterns. Requires the Director of the Department of Health Professions to annually review controlled substance prescribing and dispensing patterns. The bill requires the Director to conduct such review in consultation with an advisory panel consisting of representatives from the relevant health regulatory boards, the Department of Health, the Department of Medical Assistance Services, and the Department of Behavioral Health and Developmental Services. The bill requires the Director to make any necessary changes to the criteria for unusual patterns of prescribing and dispensing and report any findings and recommendations for best practices to the Joint Commission on Health Care by November 1 of each year. This bill is identical to HB 313.

SB 918 Professional and occupational regulation; authority to suspend or revoke licenses, certificates.

Chief patron: Ebbin

Summary as passed Senate:

Professional and occupational regulation; authority to suspend or revoke licenses, certificates, registrations, or permits; default or delinquency of education loan or scholarship. Provides that the Department of Professional and Occupational Regulation, the Department of Health Professions, the Board of Accountancy, and the Board of Education shall not be authorized to suspend or revoke the license, certificate, registration, permit, or authority it has issued any person who is in default or delinquent in the payment of a federal-guaranteed or state-guaranteed educational loan or work-conditional scholarship solely on the basis of such default or delinquency.

18105746D

HOUSE BILL NO. 424

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources on January 24, 2018)

(Patron Prior to Substitute—Delegate Levine)

A BILL to amend and reenact §§ 3.2-6546, 54.1-3423, and 54.1-3801, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to animal shelters; administration of biological products.

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-6546, 54.1-3423 and 54.1-3801, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 3.2-6546. County or city public animal shelters; confinement and disposition of animals; affiliation with foster care providers; penalties; injunctive relief.

A. For purposes of this section:

"Animal" shall not include agricultural animals.

"Rightful owner" means a person with a right of property in the animal.

B. The governing body of each county or city shall maintain or cause to be maintained a public animal shelter and shall require dogs running at large without the tag required by § 3.2-6531 or in violation of an ordinance passed pursuant to § 3.2-6538 to be confined therein. Nothing in this section shall be construed to prohibit confinement of other companion animals in such a shelter. The governing body of any county or city need not own the facility required by this section but may contract for its establishment with a private group or in conjunction with one or more other local governing bodies. The governing body shall require that:

1. The public animal shelter shall be accessible to the public at reasonable hours during the week;

2. The public animal shelter shall obtain a signed statement from each of its directors, operators, staff, or animal caregivers specifying that each individual has never been convicted of animal cruelty, neglect, or abandonment, and each shelter shall update such statement as changes occur;

3. If a person contacts the public animal shelter inquiring about a lost companion animal, the shelter shall advise the person if the companion animal is confined at the shelter or if a companion animal of similar description is confined at the shelter;

4. The public animal shelter shall maintain a written record of the information on each companion animal submitted to the shelter by a private animal shelter in accordance with subsection D of § 3.2-6548 for a period of 30 days from the date the information is received by the shelter. If a person contacts the shelter inquiring about a lost companion animal, the shelter shall check its records and make available to such person any information submitted by a private animal shelter or allow such person inquiring about a lost animal to view the written records;

5. The public animal shelter shall maintain a written record of the information on each companion animal submitted to the shelter by a releasing agency other than a public or private animal shelter in accordance with subdivision F 2 of § 3.2-6549 for a period of 30 days from the date the information is received by the shelter. If a person contacts the shelter inquiring about a lost companion animal, the shelter shall check its records and make available to such person any information submitted by such releasing agency or allow such person inquiring about a lost companion animal to view the written records; and

6. The public animal shelter shall maintain a written record of the information on each companion animal submitted to the shelter by an individual in accordance with subdivision A 2 of § 3.2-6551 for a period of 30 days from the date the information is received by the shelter. If a person contacts the shelter inquiring about a lost companion animal, the shelter shall check its records and make available to such person any information submitted by the individual or allow such person inquiring about a lost companion animal to view the written records.

C. An animal confined pursuant to this section shall be kept for a period of not less than five days, such period to commence on the day immediately following the day the animal is initially confined in the facility, unless sooner claimed by the rightful owner thereof.

The operator or custodian of the public animal shelter shall make a reasonable effort to ascertain whether the animal has a collar, tag, license, tattoo, or other form of identification. If such identification is found on the animal, the animal shall be held for an additional five days, unless sooner claimed by the rightful owner. If the rightful owner of the animal can be readily identified, the operator or custodian of the shelter shall make a reasonable effort to notify the owner of the animal's confinement within the next 48 hours following its confinement.

During the time that an animal is confined pursuant to this subsection, the operator or custodian of

the public animal shelter may vaccinate the animal to prevent the risk of communicable diseases, provided that (i) all vaccines are administered in accordance with a protocol approved by a licensed veterinarian and (ii) rabies vaccines are administered by a licensed veterinarian or licensed veterinary technician under the immediate direction and supervision of a licensed veterinarian in accordance with § 3.2-6521.

If any animal confined pursuant to this section is claimed by its rightful owner, such owner may be charged with the actual expenses incurred in keeping the animal impounded. In addition to this and any other fees that might be levied, the locality may, after a public hearing, adopt an ordinance to charge the owner of an animal a fee for impoundment and increased fees for subsequent impoundments of the same animal.

D. If an animal confined pursuant to this section has not been claimed upon expiration of the appropriate holding period as provided by subsection C, it shall be deemed abandoned and become the property of the public animal shelter.

Such animal may be euthanized in accordance with the methods approved by the State Veterinarian or disposed of by the methods set forth in subdivisions 1 through 5. No shelter shall release more than two animals or a family of animals during any 30-day period to any one person under subdivisions 2, 3, or 4.

1. Release to any humane society, public or private animal shelter, or other releasing agency within the Commonwealth, provided that each humane society, animal shelter, or other releasing agency obtains a signed statement from each of its directors, operators, staff, or animal caregivers specifying that each individual has never been convicted of animal cruelty, neglect, or abandonment and updates such statements as changes occur;

2. Adoption by a resident of the county or city where the shelter is operated and who will pay the required license fee, if any, on such animal, provided that such resident has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment;

3. Adoption by a resident of an adjacent political subdivision of the Commonwealth, if the resident has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment;

4. Adoption by any other person, provided that such person has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment and provided that no dog or cat may be adopted by any person who is not a resident of the county or city where the shelter is operated, or of an adjacent political subdivision, unless the dog or cat is first sterilized, and the shelter may require that the sterilization be done at the expense of the person adopting the dog or cat; or

5. Release for the purposes of adoption or euthanasia only, to an animal shelter, or any other releasing agency located in and lawfully operating under the laws of another state, provided that such animal shelter, or other releasing agency: (i) maintains records that would comply with § 3.2-6557; (ii) requires that adopted dogs and cats be sterilized; (iii) obtains a signed statement from each of its directors, operators, staff, and animal caregivers specifying that each individual has never been convicted of animal cruelty, neglect, or abandonment, and updates such statement as changes occur; and (iv) has provided to the public or private animal shelter or other releasing agency within the Commonwealth a statement signed by an authorized representative specifying the entity's compliance with clauses (i) through (iii), and the provisions of adequate care and performance of humane euthanasia, as necessary in accordance with the provisions of this chapter.

For purposes of recordkeeping, release of an animal by a public animal shelter to a public or private animal shelter or other releasing agency shall be considered a transfer and not an adoption. If the animal is not first sterilized, the responsibility for sterilizing the animal transfers to the receiving entity.

Any proceeds deriving from the gift, sale, or delivery of such animals shall be paid directly to the treasurer of the locality. Any proceeds deriving from the gift, sale, or delivery of such animals by a public or private animal shelter or other releasing agency shall be paid directly to the clerk or treasurer of the animal shelter or other releasing agency for the expenses of the society and expenses incident to any agreement concerning the disposing of such animal. No part of the proceeds shall accrue to any individual except for the aforementioned purposes.

E. Nothing in this section shall prohibit the immediate euthanasia of a critically injured, critically ill, or unweaned animal for humane purposes. Any animal euthanized pursuant to the provisions of this chapter shall be euthanized by one of the methods prescribed or approved by the State Veterinarian.

F. Nothing in this section shall prohibit the immediate euthanasia or disposal by the methods listed in subdivisions 1 through 5 of subsection D of an animal that has been released to a public or private animal shelter, other releasing agency, or animal control officer by the animal's rightful owner after the rightful owner has read and signed a statement: (i) surrendering all property rights in such animal; (ii) stating that no other person has a right of property in the animal; and (iii) acknowledging that the animal may be immediately euthanized or disposed of in accordance with subdivisions 1 through 5 of subsection D.

G. Nothing in this section shall prohibit any feral dog or feral cat not bearing a collar, tag, tattoo, or other form of identification that, based on the written statement of a disinterested person, exhibits behavior that poses a risk of physical injury to any person confining the animal, from being euthanized after being kept for a period of not less than three days, at least one of which shall be a full business day, such period to commence on the day the animal is initially confined in the facility, unless sooner claimed by the rightful owner. The statement of the disinterested person shall be kept with the animal as required by § 3.2-6557. For purposes of this subsection, a disinterested person shall not include a person releasing or reporting the animal.

H. No public animal shelter shall place a companion animal in a foster home with a foster care provider unless the foster care provider has read and signed a statement specifying that he has never been convicted of animal cruelty, neglect, or abandonment, and each shelter shall update such statement as changes occur. The shelter shall maintain the original statement and any updates to such statement in accordance with this chapter and for at least so long as the shelter has an affiliation with the foster care provider.

I. A public animal shelter that places a companion animal in a foster home with a foster care provider shall ensure that the foster care provider complies with § 3.2-6503.

J. If a public animal shelter finds a direct and immediate threat to a companion animal placed with a foster care provider, it shall report its findings to the animal control agency in the locality where the foster care provider is located.

K. The governing body shall require that the public animal shelter be operated in accordance with regulations issued by the Board. If this chapter or such regulations are violated, the locality may be assessed a civil penalty by the Board or its designee in an amount that does not exceed $1,000 per violation. Each day of the violation is a separate offense. In determining the amount of any civil penalty, the Board or its designee shall consider: (i) the history of previous violations at the shelter; (ii) whether the violation has caused injury to, death or suffering of, an animal; and (iii) the demonstrated good faith of the locality to achieve compliance after notification of the violation. All civil penalties assessed under this section shall be recovered in a civil action brought by the Attorney General in the name of the Commonwealth. Such civil penalties shall be paid into a special fund in the state treasury to the credit of the Department to be used in carrying out the purposes of this chapter.

L. If this chapter or any laws governing public animal shelters are violated, the Commissioner may bring an action to enjoin the violation or threatened violation of this chapter or the regulations pursuant thereto regarding public animal shelters, in the circuit court where the shelter is located. The Commissioner may request the Attorney General to bring such an action, when appropriate.

§ 54.1-3423. Board to issue registration unless inconsistent with public interest; authorization to conduct research; application and fees.

A. The Board shall register an applicant to manufacture or distribute controlled substances included in Schedules I through V unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the Board shall consider the following factors:

1. Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

2. Compliance with applicable state and local law;

3. Any convictions of the applicant under any federal and state laws relating to any controlled substance;

4. Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;

5. Furnishing by the applicant of false or fraudulent material in any application filed under this chapter;

6. Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

7. Any other factors relevant to and consistent with the public health and safety.

B. Registration under subsection A does not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

C. Practitioners must be registered to conduct research with controlled substances in Schedules II through VI. Practitioners registered under federal law to conduct research with Schedule I substances may conduct research with Schedule I substances within this Commonwealth upon furnishing the evidence of that federal registration.

D. The Board may register other persons or entities to possess controlled substances listed on Schedules II through VI upon a determination that (i) there is a documented need, (ii) the issuance of the registration is consistent with the public interest, (iii) the possession and subsequent use of the controlled substances complies with applicable state and federal laws and regulations, and (iv) the

subsequent storage, use, and recordkeeping of the controlled substances will be under the general supervision of a licensed pharmacist, practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as specified in the Board's regulations. The Board shall consider, at a minimum, the factors listed in subsection A of this section in determining whether the registration shall be issued. Notwithstanding the exceptions listed in § 54.1-3422 A, the Board may mandate a controlled substances registration for sites maintaining certain types and quantities of Schedules II through VI controlled substances as it may specify in its regulations. The Board shall promulgate regulations related to requirements or criteria for the issuance of such controlled substances registration, storage, security, supervision, and recordkeeping.

E. The Board may register a public or private animal shelter as defined in § 3.2-6500 to purchase, possess, and administer certain Schedule ~~II-VI~~ *II through VI* controlled substances approved by the State Veterinarian for the purpose of euthanizing injured, sick, homeless, and unwanted domestic pets and animals~~;~~ and to purchase, possess, and administer certain Schedule VI ~~controlled substances~~ *drugs and biological products* for the purpose of preventing, controlling, and treating certain communicable diseases that failure to control would result in transmission to the animal population in the shelter. ~~The drugs~~ *Controlled substances* used for euthanasia shall be administered only in accordance with protocols established by the State Veterinarian and only by persons trained in accordance with instructions by the State Veterinarian. The list of Schedule VI drugs *and biological products* used for treatment and prevention of communicable diseases within the shelter shall be determined by the supervising veterinarian of the shelter and the drugs *and biological products* shall be administered only pursuant to written protocols established or approved by the supervising veterinarian of the shelter and only by persons who have been trained in accordance with instructions established or approved by the supervising veterinarian. The shelter shall maintain a copy of the approved list of drugs *and biological products*, written protocols for administering, and training records of those persons administering drugs *and biological products* on the premises of the shelter.

F. The Board may register a crisis stabilization unit established pursuant to § 37.2-500 or 37.2-601 and licensed by the Department of Behavioral Health and Developmental Services to maintain a stock of Schedule VI controlled substances necessary for immediate treatment of patients admitted to the crisis stabilization unit, which may be accessed and administered by a nurse pursuant to a written or oral order of a prescriber in the absence of a prescriber. Schedule II through Schedule V controlled substances shall only be maintained if so authorized by federal law and Board regulations.

G. The Board may register an entity at which a patient is treated by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically for the purpose of establishing a bona fide practitioner-patient relationship and is prescribed Schedule II through VI controlled substances when such prescribing is in compliance with federal requirements for the practice of telemedicine and the patient is not in the physical presence of a practitioner registered with the U.S. Drug Enforcement Administration. In determining whether the registration shall be issued, the Board shall consider (i) the factors listed in subsection A, (ii) whether there is a documented need for such registration, and (iii) whether the issuance of the registration is consistent with the public interest.

H. Applications for controlled substances registration certificates and renewals thereof shall be made on a form prescribed by the Board and such applications shall be accompanied by a fee in an amount to be determined by the Board.

I. Upon (i) any change in ownership or control of a business, (ii) any change of location of the controlled substances stock, (iii) the termination of authority by or of the person named as the responsible party on a controlled substances registration, or (iv) a change in the supervising practitioner, if applicable, the registrant or responsible party shall immediately surrender the registration. The registrant shall, within 14 days following surrender of a registration, file a new application and, if applicable, name the new responsible party or supervising practitioner.

§ 54.1-3801. (Effective until July 1, 2018) Exceptions.

This chapter shall not apply to:

1. The owner of an animal and the owner's full-time, regular employee caring for and treating the animal belonging to such owner, except where the ownership of the animal was transferred for the purpose of circumventing the requirements of this chapter;

2. Veterinarians licensed in other states called in actual consultation with veterinarians licensed in the Commonwealth who do not open an office or appoint a place to practice within the Commonwealth;

3. Veterinarians employed by the United States or by the Commonwealth while actually engaged in the performance of their official duties;

4. Veterinarians providing free care in underserved areas of Virginia who (i) do not regularly practice veterinary medicine in Virginia, (ii) hold a current valid license or certificate to practice veterinary medicine in another state, territory, district or possession of the United States, (iii) volunteer to provide free care in an underserved area of the Commonwealth under the auspices of a publicly supported all

volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) file copies of their licenses or certificates issued in such other jurisdiction with the Board, (v) notify the Board at least five business days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledge, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in Virginia to any veterinarian whose license has been previously suspended or revoked, who has been convicted of a felony or who is otherwise found to be in violation of applicable laws or regulations. However, the Board shall allow a veterinarian who meets the above criteria to provide volunteer services without prior notice for a period of up to three days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state; or

5. Persons purchasing, possessing, and administering drugs *and biological products* in a public or private *animal* shelter as defined in § 3.2-6500, provided that such purchase, possession, and administration is in compliance with § 54.1-3423.

§ 54.1-3801. (Effective July 1, 2018) Exceptions.

This chapter shall not apply to:

1. The owner of an animal and the owner's full-time, regular employee caring for and treating the animal belonging to such owner, except where the ownership of the animal was transferred for the purpose of circumventing the requirements of this chapter;

2. Veterinarians licensed in other states called in actual consultation with veterinarians licensed in the Commonwealth who do not open an office or appoint a place to practice within the Commonwealth;

3. Veterinarians employed by the United States or by the Commonwealth while actually engaged in the performance of their official duties, with the exception of those engaged in the practice of veterinary medicine, pursuant to § 54.1-3800, as part of a veterinary medical education program accredited by the American Veterinary Medical Association Council on Education and located in the Commonwealth;

4. Veterinarians providing free care in underserved areas of Virginia who (i) do not regularly practice veterinary medicine in Virginia, (ii) hold a current valid license or certificate to practice veterinary medicine in another state, territory, district, or possession of the United States, (iii) volunteer to provide free care in an underserved area of the Commonwealth under the auspices of a publicly supported all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) file copies of their licenses or certificates issued in such other jurisdiction with the Board, (v) notify the Board at least five business days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledge, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in Virginia to any veterinarian whose license has been previously suspended or revoked, who has been convicted of a felony, or who is otherwise found to be in violation of applicable laws or regulations. However, the Board shall allow a veterinarian who meets the above criteria to provide volunteer services without prior notice for a period of up to three days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state; or

5. Persons purchasing, possessing, and administering drugs *and biological products* in a public or private *animal* shelter as defined in § 3.2-6500, provided that such purchase, possession, and administration is in compliance with § 54.1-3423.

HOUSE SUBSTITUTE

HB424H1

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 54.1-3301 of the Code of Virginia, relating to veterinarians; compounding of drugs.

[H 875]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3301 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3301. Exceptions.

This chapter shall not be construed to:

1. Interfere with any legally qualified practitioner of dentistry, or veterinary medicine or any physician acting on behalf of the Virginia Department of Health or local health departments, in the compounding of his prescriptions or the purchase and possession of drugs as he may require;

2. Prevent any legally qualified practitioner of dentistry, or veterinary medicine or any prescriber, as defined in § 54.1-3401, acting on behalf of the Virginia Department of Health or local health departments, from administering or supplying to his patients the medicines that he deems proper under the conditions of § 54.1-3303 or from causing drugs to be administered or dispensed pursuant to §§ 32.1-42.1 and 54.1-3408, except that a veterinarian shall only be authorized to dispense a compounded drug, distributed from a pharmacy, when (i) the animal is his own patient, (ii) the animal is a companion animal as defined in regulations promulgated by the Board of Veterinary Medicine, (iii) the quantity dispensed is no more than a ~~72-hour~~ *seven-day* supply, (iv) the compounded drug is for the treatment of an emergency condition, and (v) timely access to a compounding pharmacy is not available, as determined by the prescribing veterinarian;

3. Prohibit the sale by merchants and retail dealers of proprietary medicines as defined in Chapter 34 (§ 54.1-3400 et seq.) of this title;

4. Prevent the operation of automated drug dispensing systems in hospitals pursuant to Chapter 34 (§ 54.1-3400 et seq.) of this title;

5. Prohibit the employment of ancillary personnel to assist a pharmacist as provided in the regulations of the Board;

6. Interfere with any legally qualified practitioner of medicine, osteopathy, or podiatry from purchasing, possessing or administering controlled substances to his own patients or providing controlled substances to his own patients in a bona fide medical emergency or providing manufacturers' professional samples to his own patients;

7. Interfere with any legally qualified practitioner of optometry, certified or licensed to use diagnostic pharmaceutical agents, from purchasing, possessing or administering those controlled substances as specified in § 54.1-3221 or interfere with any legally qualified practitioner of optometry certified to prescribe therapeutic pharmaceutical agents from purchasing, possessing, or administering to his own patients those controlled substances as specified in § 54.1-3222 and the TPA formulary, providing manufacturers' samples of these drugs to his own patients, or dispensing, administering, or selling ophthalmic devices as authorized in § 54.1-3204;

8. Interfere with any physician assistant with prescriptive authority receiving and dispensing to his own patients manufacturers' professional samples of controlled substances and devices that he is authorized, in compliance with the provisions of § 54.1-2952.1, to prescribe according to his practice setting and a written agreement with a physician or podiatrist;

9. Interfere with any licensed nurse practitioner with prescriptive authority receiving and dispensing to his own patients manufacturers' professional samples of controlled substances and devices that he is authorized, in compliance with the provisions of § 54.1-2957.01, to prescribe according to his practice setting and a written or electronic agreement with a physician;

10. Interfere with any legally qualified practitioner of medicine or osteopathy participating in an indigent patient program offered by a pharmaceutical manufacturer in which the practitioner sends a prescription for one of his own patients to the manufacturer, and the manufacturer donates a stock bottle of the prescription drug ordered at no cost to the practitioner or patient. The practitioner may dispense such medication at no cost to the patient without holding a license to dispense from the Board of Pharmacy. However, the container in which the drug is dispensed shall be labeled in accordance with the requirements of § 54.1-3410, and, unless directed otherwise by the practitioner or the patient, shall meet standards for special packaging as set forth in § 54.1-3426 and Board of Pharmacy regulations. In lieu of dispensing directly to the patient, a practitioner may transfer the donated drug with a valid

prescription to a pharmacy for dispensing to the patient. The practitioner or pharmacy participating in the program shall not use the donated drug for any purpose other than dispensing to the patient for whom it was originally donated, except as authorized by the donating manufacturer for another patient meeting that manufacturer's requirements for the indigent patient program. Neither the practitioner nor the pharmacy shall charge the patient for any medication provided through a manufacturer's indigent patient program pursuant to this subdivision. A participating pharmacy, including a pharmacy participating in bulk donation programs, may charge a reasonable dispensing or administrative fee to offset the cost of dispensing, not to exceed the actual costs of such dispensing. However, if the patient is unable to pay such fee, the dispensing or administrative fee shall be waived;

11. Interfere with any legally qualified practitioner of medicine or osteopathy from providing controlled substances to his own patients in a free clinic without charge when such controlled substances are donated by an entity other than a pharmaceutical manufacturer as authorized by subdivision 10. The practitioner shall first obtain a controlled substances registration from the Board and shall comply with the labeling and packaging requirements of this chapter and the Board's regulations; or

12. Prevent any pharmacist from providing free health care to an underserved population in Virginia who (i) does not regularly practice pharmacy in Virginia, (ii) holds a current valid license or certificate to practice pharmacy in another state, territory, district or possession of the United States, (iii) volunteers to provide free health care to an underserved area of this Commonwealth under the auspices of a publicly supported all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people, (iv) files a copy of the license or certificate issued in such other jurisdiction with the Board, (v) notifies the Board at least five business days prior to the voluntary provision of services of the dates and location of such service, and (vi) acknowledges, in writing, that such licensure exemption shall only be valid, in compliance with the Board's regulations, during the limited period that such free health care is made available through the volunteer, nonprofit organization on the dates and at the location filed with the Board. The Board may deny the right to practice in Virginia to any pharmacist whose license has been previously suspended or revoked, who has been convicted of a felony or who is otherwise found to be in violation of applicable laws or regulations. However, the Board shall allow a pharmacist who meets the above criteria to provide volunteer services without prior notice for a period of up to three days, provided the nonprofit organization verifies that the practitioner has a valid, unrestricted license in another state.

This section shall not be construed as exempting any person from the licensure, registration, permitting and record keeping requirements of this chapter or Chapter 34 of this title.

18105289D

HOUSE BILL NO. 1303

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions on February 6, 2018)

(Patron Prior to Substitute—Delegate Garrett)

A BILL to amend and reenact § 54.1-3303 of the Code of Virginia, relating to prescribing controlled substances; veterinarian-client-patient relationship.

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3303 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-3303. Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.

A. A prescription for a controlled substance may be issued only by a practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled substances, or by a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32. The prescription shall be issued for a medicinal or therapeutic purpose and may be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship *or veterinarian-client-patient relationship.*

For purposes of this section, a bona fide practitioner-patient-pharmacist relationship is one in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to his patient for a medicinal or therapeutic purpose within the course of his professional practice. In addition, a bona fide practitioner-patient relationship means that the practitioner shall (i) ensure that a medical or drug history is obtained; (ii) provide information to the patient about the benefits and risks of the drug being prescribed; (iii) perform or have performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; except for medical emergencies, the examination of the patient shall have been performed by the practitioner himself, within the group in which he practices, or by a consulting practitioner prior to issuing a prescription; and (iv) initiate additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. A practitioner who performs or has performed an appropriate examination of the patient required pursuant to clause (iii), either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically, for the purpose of establishing a bona fide practitioner-patient relationship, may prescribe Schedule II through VI controlled substances to the patient, provided that the prescribing of such Schedule II through V controlled substance is in compliance with federal requirements for the practice of telemedicine.

For the purpose of prescribing a Schedule VI controlled substance to a patient via telemedicine services as defined in § 38.2-3418.16, a prescriber may establish a bona fide practitioner-patient relationship by an examination through face-to-face interactive, two-way, real-time communications services or store-and-forward technologies when all of the following conditions are met: (a) the patient has provided a medical history that is available for review by the prescriber; (b) the prescriber obtains an updated medical history at the time of prescribing; (c) the prescriber makes a diagnosis at the time of prescribing; (d) the prescriber conforms to the standard of care expected of in-person care as appropriate to the patient's age and presenting condition, including when the standard of care requires the use of diagnostic testing and performance of a physical examination, which may be carried out through the use of peripheral devices appropriate to the patient's condition; (e) the prescriber is actively licensed in the Commonwealth and authorized to prescribe; (f) if the patient is a member or enrollee of a health plan or carrier, the prescriber has been credentialed by the health plan or carrier as a participating provider and the diagnosing and prescribing meets the qualifications for reimbursement by the health plan or carrier pursuant to § 38.2-3418.16; and (g) upon request, the prescriber provides patient records in a timely manner in accordance with the provisions of § 32.1-127.1:03 and all other state and federal laws and regulations. Nothing in this paragraph shall permit a prescriber to establish a bona fide practitioner-patient relationship for the purpose of prescribing a Schedule VI controlled substance when the standard of care dictates that an in-person physical examination is necessary for diagnosis. Nothing in this paragraph shall apply to: (1) a prescriber providing on-call coverage per an agreement with another prescriber or his prescriber's professional entity or employer; (2) a prescriber consulting with another prescriber regarding a patient's care; or (3) orders of prescribers for hospital out-patients or in-patients.

For purposes of this section, a bona fide veterinarian-client-patient relationship is one in which a veterinarian, another veterinarian within the group in which he practices, or a veterinarian with whom

he is consulting has assumed the responsibility for making medical judgments regarding the health of and providing medical treatment to an animal as defined in § 3.2-6500, other than an equine as defined in § 3.2-6200, a group of agricultural animals as defined in § 3.2-6500, or bees as defined in § 3.2-4400, and a client who is the owner or other caretaker of the animal, group of agricultural animals, or bees has consented to such treatment and agreed to follow the instructions of the veterinarian. Evidence that a veterinarian has assumed responsibility for making medical judgments regarding the health of and providing medical treatment to an animal, group of agricultural animals, or bees shall include evidence that the veterinarian (A) has sufficient knowledge of the animal, group of agricultural animals, or bees to provide a general or preliminary diagnosis of the medical condition of the animal, group of agricultural animals, or bees; (B) has made an examination of the animal, group of agricultural animals, or bees, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically or has become familiar with the care and keeping of that species of animal or bee on the premises of the client, including other premises within the same operation or production system of the client, through medically appropriate and timely visits to the premises at which the animal, group of agricultural animals, or bees are kept; and (C) is available to provide follow-up care.

Any practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than medicinally or for therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of controlled substances.

B. In order to determine whether a prescription that appears questionable to the pharmacist results from a bona fide practitioner-patient relationship, the pharmacist shall contact the prescribing practitioner or his agent and verify the identity of the patient and name and quantity of the drug prescribed. The person knowingly filling an invalid prescription shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the sale, distribution or possession of controlled substances.

No prescription shall be filled unless there is a bona fide practitioner-patient-pharmacist relationship. A prescription not issued in the usual course of treatment or for authorized research is not a valid prescription.

C. Notwithstanding any provision of law to the contrary and consistent with recommendations of the Centers for Disease Control and Prevention or the Department of Health, a practitioner may prescribe Schedule VI antibiotics and antiviral agents to other persons in close contact with a diagnosed patient when (i) the practitioner meets all requirements of a bona fide practitioner-patient relationship, as defined in subsection A, with the diagnosed patient; (ii) in the practitioner's professional judgment, the practitioner deems there is urgency to begin treatment to prevent the transmission of a communicable disease; (iii) the practitioner has met all requirements of a bona fide practitioner-patient relationship, as defined in subsection A, for the close contact except for the physical examination required in clause (iii) of subsection A; and (iv) when such emergency treatment is necessary to prevent imminent risk of death, life-threatening illness, or serious disability.

D. A pharmacist may dispense a controlled substance pursuant to a prescription of an out-of-state practitioner of medicine, osteopathy, podiatry, dentistry, optometry, or veterinary medicine, a nurse practitioner, or a physician assistant authorized to issue such prescription if the prescription complies with the requirements of this chapter and the Drug Control Act (§ 54.1-3400 et seq.).

E. A licensed nurse practitioner who is authorized to prescribe controlled substances pursuant to § 54.1-2957.01 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

F. A licensed physician assistant who is authorized to prescribe controlled substances pursuant to § 54.1-2952.1 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

G. A TPA-certified optometrist who is authorized to prescribe controlled substances pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 may issue prescriptions in good faith or provide manufacturers' professional samples to his patients for medicinal or therapeutic purposes within the scope of his professional practice for the drugs specified on the TPA-Formulary, established pursuant to § 54.1-3223, which shall be limited to (i) analgesics included on Schedule II controlled substances as defined in § 54.1-3448 of the Drug Control Act (§ 54.1-3400 et seq.) consisting of hydrocodone in combination with acetaminophen; (ii) oral analgesics included in Schedules III through VI, as defined in §§ 54.1-3450 and 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.), which are appropriate to relieve ocular pain; (iii) other oral Schedule VI controlled substances, as defined in § 54.1-3455 of the Drug Control Act, appropriate to treat diseases and abnormal conditions of the human eye and its adnexa; (iv) topically applied Schedule VI drugs, as defined in § 54.1-3455 of the Drug Control Act;

and (v) intramuscular administration of epinephrine for treatment of emergency cases of anaphylactic shock.

H. The requirement for a bona fide practitioner-patient relationship shall be deemed to be satisfied by a member or committee of a hospital's medical staff when approving a standing order or protocol for the administration of influenza vaccinations and pneumococcal vaccinations in a hospital in compliance with § 32.1-126.4.

18105233D

SENATE BILL NO. 226

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Education and Health on January 25, 2018)

(Patron Prior to Substitute—Senator Stanley)

A BILL to amend and reenact §§ 54.1-2519, 54.1-2521, 54.1-2522, and 54.1-2522.1, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to the Prescription Monitoring Program; veterinarians.

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2519, 54.1-2521, 54.1-2522, and 54.1-2522.1, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 54.1-2519. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by (i) a practitioner or, under the practitioner's direction, his authorized agent or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Bureau" means the Virginia Department of State Police, Bureau of Criminal Investigation, Drug Diversion Unit.

"Controlled substance" means a drug, substance or immediate precursor in Schedules I through VI of the Drug Control Act, Chapter 34 (§ 54.1-3400 et seq.) of this title.

"Covered substance" means all controlled substances included in Schedules II, III, and IV and all drugs of concern that are required to be reported to the Prescription Monitoring Program, pursuant to this chapter.

"Department" means the Virginia Department of Health Professions.

"Director" means the Director of the Virginia Department of Health Professions.

"Dispense" means to deliver a controlled substance to an ultimate user ~~or~~, research subject, *or owner of an animal patient* by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling or compounding necessary to prepare the substance for that delivery.

"Dispenser" means a person or entity that (i) is authorized by law to dispense a covered substance or to maintain a stock of covered substances for the purpose of dispensing, and (ii) dispenses the covered substance to a citizen of the Commonwealth regardless of the location of the dispenser, or who dispenses such covered substance from a location in Virginia regardless of the location of the recipient.

"Drug of concern" means any drug or substance, including any controlled substance or other drug or substance, where there has been or there is the potential for abuse and that has been identified by the Board of Pharmacy pursuant to § 54.1-3456.1.

"Prescriber" means a practitioner licensed in the Commonwealth who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription for a covered substance or a practitioner licensed in another state to so issue a prescription for a covered substance.

"Recipient" means a person who receives a covered substance from a dispenser *and includes the owner of an animal patient.*

"Relevant health regulatory board" means any such board that licenses persons or entities with the authority to prescribe or dispense covered substances, including~~, but not limited to,~~ the Board of Dentistry, the Board of Medicine, *the Board of Veterinary Medicine,* and the Board of Pharmacy.

§ 54.1-2521. Reporting requirements.

A. The failure by any person subject to the reporting requirements set forth in this section and the Department's regulations to report the dispensing of covered substances shall constitute grounds for disciplinary action by the relevant health regulatory board.

B. Upon dispensing a covered substance, a dispenser of such covered substance shall report the following information:

1. The recipient's name and address.
2. The recipient's date of birth.
3. The covered substance that was dispensed to the recipient.
4. The quantity of the covered substance that was dispensed.
5. The date of the dispensing.
6. The prescriber's identifier number.
7. The dispenser's identifier number.
8. The method of payment for the prescription.
9. Any other non-clinical information that is designated by the Director as necessary for the

implementation of this chapter in accordance with the Department's regulations.

10. Any other information specified in regulations promulgated by the Director as required in order for the Prescription Monitoring Program to be eligible to receive federal funds.

C. Except as provided in subdivision 7 of § 54.1-2522, in cases where the ultimate user of a covered substance is an animal, the dispenser shall report the relevant information required by subsection B for the owner of the animal.

D. The reports required herein shall be made to the Department or its agent within 24 hours or the dispenser's next business day, whichever comes later, and shall be made and transmitted in such manner and format and according to the standards and schedule established in the Department's regulations.

§ 54.1-2522. Reporting exemptions.

The dispensing of covered substances under the following circumstances shall be exempt from the reporting requirements set forth in § 54.1-2521:

1. Dispensing of manufacturers' samples of such covered substances or of covered substances dispensed pursuant to an indigent patient program offered by a pharmaceutical manufacturer.

2. Dispensing of covered substances by a practitioner of the healing arts to his patient in a bona fide medical emergency or when pharmaceutical services are not available.

3. Administering of covered substances.

4. Dispensing of covered substances within an appropriately licensed narcotic maintenance treatment program.

5. Dispensing of covered substances to inpatients in hospitals or nursing facilities licensed by the Board of Health or facilities that are otherwise authorized by law to operate as hospitals or nursing homes in the Commonwealth.

6. Dispensing of covered substances to inpatients in hospices licensed by the Board of Health.

7. Dispensing of covered substances by veterinarians to animals within the usual course of their professional practice *for a course of treatment to last seven days or less.*

8. Dispensing of covered substances as otherwise provided in the Department's regulations.

§ 54.1-2522.1. (Effective until July 1, 2022) Requirements of prescribers.

A. Any prescriber who is licensed in the Commonwealth to treat ~~human~~ patients and is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription for a covered substance shall be registered with the Prescription Monitoring Program by the Department of Health Professions.

B. A prescriber registered with the Prescription Monitoring Program or a person to whom he has delegated authority to access information in the possession of the Prescription Monitoring Program pursuant to § 54.1-2523.2 shall, at the time of initiating a new course of treatment to a ~~human~~ patient that includes the prescribing of opioids anticipated at the onset of treatment to last more than seven consecutive days, request information from the Director for the purpose of determining what, if any, other covered substances are currently prescribed to the patient *and, if the patient is an animal, the owner of the animal.* In addition, any prescriber who holds a special identification number from the Drug Enforcement Administration authorizing the prescribing of controlled substances approved for use in opioid addiction therapy shall, prior to or as a part of execution of a treatment agreement with the *human* patient, request information from the Director for the purpose of determining what, if any, other covered substances the *human* patient is currently being prescribed. Nothing in this section shall prohibit prescribers from making additional periodic requests for information from the Director as may be required by routine prescribing practices.

C. A prescriber shall not be required to meet the provisions of subsection B if:

1. The opioid is prescribed to a patient currently receiving hospice or palliative care;

2. The opioid is prescribed to a patient as part of treatment for a surgical or invasive procedure and such prescription is for no more than 14 consecutive days;

3. The opioid is prescribed to a patient during an inpatient hospital admission or at discharge;

4. The opioid is prescribed to a patient in a nursing home or a patient in an assisted living facility that uses a sole source pharmacy;

5. The Prescription Monitoring Program is not operational or available due to temporary technological or electrical failure or natural disaster; ~~or~~

6. The prescriber is unable to access the Prescription Monitoring Program due to emergency or disaster and documents such circumstances in the patient's medical record*; or*

7. The opioid is prescribed to an animal patient as part of a course of treatment lasting seven days or less.

§ 54.1-2522.1. (Effective July 1, 2022) Requirements of prescribers.

A. Any prescriber who is licensed in the Commonwealth to treat ~~human~~ patients and is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription for a covered substance shall be registered with the Prescription Monitoring Program by the Department of Health Professions.

B. Prescribers registered with the Prescription Monitoring Program shall, at the time of initiating a new course of treatment to a ~~human~~ patient that includes the prescribing of benzodiazepine or an opiate

anticipated at the onset of treatment to last more than 90 consecutive days, request information from the Director for the purpose of determining what, if any, other covered substances are currently prescribed to the patient *and, if the patient is an animal, the owner of the animal*. In addition, any prescriber who holds a special identification number from the Drug Enforcement Administration authorizing the prescribing of controlled substances approved for use in opioid addiction therapy shall, prior to or as a part of execution of a treatment agreement with the patient, request information from the Director for the purpose of determining what, if any, other covered substances the patient is currently being prescribed. Nothing in this section shall prohibit prescribers from making additional periodic requests for information from the Director as may be required by routine prescribing practices.

C. The Secretary of Health and Human Resources may identify and publish a list of benzodiazepines or opiates that have a low potential for abuse by ~~human~~ patients. Prescribers who prescribe such identified benzodiazepines or opiates shall not be required to meet the provisions of subsection B. In addition, a prescriber shall not be required to meet the provisions of subsection B if the course of treatment arises from pain management relating to dialysis or cancer treatments.

DRAFT Legislative Proposal for 2019 General Assembly

§ 54.1-3807. Refusal to grant and to renew; revocation and suspension of licenses and registrations.

The Board may refuse to grant or to renew, may suspend or revoke any license to practice veterinary medicine or to practice as a veterinary technician or registration to practice as an equine dental technician if such applicant or holder:

1. Is convicted of any felony or of any misdemeanor involving moral turpitude;

2. Employs or permits any person who does not hold a license to practice veterinary medicine or to practice as a licensed veterinary technician or registration to practice as an equine dental technician to perform work which can lawfully be performed only by a person holding the appropriate license or registration;

3. Willfully violates any provision of this chapter or any regulation of the Board;

4. Has violated any federal or state law relating to controlled substances as defined in Chapter 34 (§ 54.1-3400 et seq.);

5. Is guilty of unprofessional conduct as defined by regulations of the Board;

6. Uses alcohol or drugs to the extent such use renders him unsafe to practice or suffers from any mental or physical condition rendering him unsafe to practice; or

7. Has had his license to practice veterinary medicine or as a veterinary technician or his registration to practice as an equine dental technician in any other state revoked or suspended for any reason other than nonrenewal or has surrendered his license or registration in lieu of disciplinary action.

Agenda Item: **Regulatory Actions - Chart of Regulatory Actions**
(As of February 26, 2018)

Chapter		Action / Stage Information
[18 VAC 150 - 20]	Regulations Governing the Practice of Veterinary Medicine	Prescribing of opioids [Action 4808] Proposed - *Register Date: 12/11/17* *Comment closed: 2/9/28* *Board to adopt final regs: 3/15/18*
[18 VAC 150 - 20]	Regulations Governing the Practice of Veterinary Medicine	Faculty and intern/resident license [Action 4616] Final - *At Secretary's Office*

Faculty and Intern/Resident Licensure

18VAC150-20-100. Fees.

The following fees shall be in effect:

Veterinary application for licensure Veterinary application for faculty licensure	$200 $100
Veterinary license renewal (active)	$175
Veterinary license renewal (inactive) Veterinary faculty license renewal	$85 $75
Veterinary reinstatement of expired license	$255
Veterinary license late renewal Veterinary faculty license late renewal	$60 $25
Veterinarian reinstatement after disciplinary action Veterinary intern/resident license -- initial or renewal	$450 $25
Veterinary technician application for licensure	$65
Veterinary technician license renewal	$50
Veterinary technician license renewal (inactive)	$25
Veterinary technician license late renewal	$20
Veterinary technician reinstatement of expired license	$95
Veterinary technician reinstatement after disciplinary action	$125
Equine dental technician initial registration	$100
Equine dental technician registration renewal	$70
Equine dental technician late renewal	$25
Equine dental technician reinstatement	$120
Initial veterinary establishment permit registration	$300
Veterinary establishment renewal	$200
Veterinary establishment late renewal	$75
Veterinary establishment reinstatement	$75
Veterinary establishment reinspection	$300
Veterinary establishment -- change of location	$300
Veterinary establishment -- change of veterinarian-in-charge	$40
Duplicate license	$15

Duplicate wall certificate	$25
Returned check	$35
Licensure verification to another jurisdiction	$25

18VAC150-20-122. Requirements for faculty licensure.

A. Upon payment of the fee prescribed in 18VAC150-20-100 and provided that no grounds exist to deny licensure pursuant to § 54.1-3807 of the Code of Virginia, the board may grant a faculty license to engage in the practice of veterinary medicine as part of a veterinary medical education program accredited by the American Veterinary Medical Association Council on Education to an applicant who:

1. Is qualified for full licensure pursuant to 18VAC150-20-110 or 18VAC150-20-120;

2. Is a graduate of an accredited veterinary program and has an unrestricted current license or if lapsed, is eligible for reinstatement in another United States jurisdiction; or

3. Is a graduate of a veterinary program and has advanced training recognized by the American Board of Veterinary Specialties or a specialty training program acceptable to the veterinary medical education program in which he serves on the faculty.

B. The dean of a veterinary medical education program shall provide verification that the applicant is being or has been hired by the program and shall include an assessment of the applicant's clinical competency and clinical experience that qualifies the applicant for a faculty license.

C. The holder of a faculty license shall be entitled to perform all functions that a person licensed to practice veterinary medicine would be entitled to perform as part of his faculty duties, including patient care functions associated with teaching, research, and the delivery of patient care that takes place only within [~~the~~ a] veterinary establishment or diagnostic and clinical services operated by or affiliated with the veterinary program. A faculty license shall not authorize the holder to practice veterinary medicine in nonaffiliated veterinary establishments or in private practice settings.

D. A faculty license shall expire on December 31 of the second year after its issuance and may be renewed annually without a requirement for continuing education, as specified in 18VAC150-20-70, as long as the accredited program certifies to the licensee's continued employment. When such a license holder ceases serving on the faculty, the license shall be null and void upon termination of employment. The dean of the veterinary medical education program shall notify the board within 30 days of such termination of employment.

18VAC150-20-123. Requirements for an intern/resident license.

A. Upon payment of the fee prescribed in 18VAC150-20-100 and provided that no grounds exist to deny licensure pursuant to § 54.1-3807 of the Code of Virginia, the board may issue a temporary license to practice veterinary medicine to an intern or resident. Upon recommendation of the dean or director of graduate education of the veterinary medical education program, such a license may be issued to an applicant who is a graduate of an AVMA-accredited program or who meets requirements of the Educational Commission of Foreign Veterinary Graduates or the Program for the Assessment of Veterinary Education Equivalence of the American Association of Veterinary State Boards, as verified by the veterinary medical education program. The application shall include the beginning and ending dates of the internship or residency.

B. The intern or resident shall be supervised by a fully licensed veterinarian or a veterinarian who holds a faculty license issued by the board. The intern or resident shall only practice within [~~the~~ a] veterinary establishment or diagnostic and clinical services operated by or affiliated with the veterinary program. A temporary license shall not authorize the holder to practice veterinary medicine in nonaffiliated veterinary establishments or in private practice settings.

C. An intern or resident license shall expire on August 1 of the second year after its issuance and may be renewed upon recommendation by the dean or director of graduate education of the veterinary medical education program.

Agenda Item: Petition for rulemaking - Webster

Included in your agenda package are:

Petition from

Petition from Claire Webster – requesting delegation of administration of Schedule II-V drugs by any route to an unlicensed assistant under the direction and supervision of a veterinarian or veterinary technician

Copy of 6 comments in opposition; there were no comments in support

Board action:

Action to accept petitioner's request to amend regulations or to deny the request with reasons for denial stated.

Request for Comment on Petition for Rulemaking

Promulgating Board: **Board of Veterinary Medicine**

Regulatory Coordinator: Elaine J. Yeatts
(804)367-4688
elaine.yeatts@dhp.virginia.gov

Agency Contact: Leslie L. Knachel
Executive Director
(804)367-4468
leslie.knachel@dhp.virginia.gov

Contact Address: Department of Health Professions
9960 Mayland Drive
Suite 300
Richmond, VA 23233

Chapter Affected:

18 vac 150 - 20: Regulations Governing the Practice of Veterinary Medicine

Statutory Authority: State: Chapter 38 of Title 54.1

Date Petition Received 09/19/2017

Petitioner Claire Webster

Petitioner's Request

To authorize the delegation of administration of Schedule II-V drugs by any route to an unlicensed assistant under the direction and supervision of a veterinarian or a veterinary technician.

Agency Plan

The petition will be published on October 16, 2017 in the Register of Regulations and also posted on the Virginia Regulatory Townhall at www.townhall.virginia.gov to receive public comment ending November15, 2017. Following receipt of all comments on the petition to amend regulations, the Board will decide whether to make any changes to the regulatory language. This matter will be on the Board's agenda for its first meeting after the comment period, which is scheduled for February 8, 2018.

Publication Date 10/16/2017 *(comment period will also begin on this date)*

Comment End Date 11/15/2017

COMMONWEALTH OF VIRGINIA
Board of Veterinary Medicine

9960 Mayland Drive, Suite 300
Richmond, Virginia 23233-1463

(804) 367-4468 (Tel)
(804) 527-4471 (Fax)

Petition for Rule-making

The Code of Virginia (§ 2.2-4007) and the Public Participation Guidelines of this board require a person who wishes to petition the board to develop a new regulation or amend an existing regulation to provide certain information. Within 14 days of receiving a valid petition, the board will notify the petitioner and send a notice to the Register of Regulations identifying the petitioner, the nature of the request and the plan for responding to the petition. Following publication of the petition in the Register, a 21-day comment period will begin to allow written comment on the petition. Within 90 days after the comment period, the board will issue a written decision on the petition.

Please provide the information requested below. (Print or Type)

Petitioner's full name (Last, First, Middle initial, Suffix,) Webster, Claire, L.		
Street Address 3925 Dupree Lane	**Area Code and Telephone Number** 757-499-5463	
City Virginia Beach	**State** VA	**Zip Code** 23456
Email Address (optional) claire.webster@bluepearlvet.com	**Fax (optional)** 757-499-3916	

Respond to the following questions:

1. What regulation are you petitioning the board to amend? Please state the title of the regulation and the section/sections you want the board to consider amending.

18VAC150-20-172. Delegation of duties.

2. Please summarize the substance of the change you are requesting and state the rationale or purpose for the new or amended rule.

"A. A licensed veterinarian may delegate the administration (including by injection) of Schedule VI drugs to a properly trained assistant under his immediate and direct supervision."

I am not sure of many veterinary clinics that use scheduled VI drugs. I would propose that it be changed to "scheduled II-V." I believe that under direct supervision of a DVM or LVT, that a trained veterinary assistant can administer oral/injectable controlled substances.

3. State the legal authority of the board to take the action requested. In general, the legal authority for the adoption of regulations by the board is found in § 54.1-2400 of the Code of Virginia. If there is other legal authority for promulgation of a regulation, please provide that Code reference.

Statutory Authority: § 54.1-2400 and Chapter 38 of Title 54.1 of the *Code of Virginia*

Signature: Claire L. Webster, CVT, LVT, VTSECC Date: 9/18/17

Virginia.gov Agencies | Governor

Logged in as
Elaine J. Yeatts

Agency **Department of Health Professions**

Board **Board of Veterinary Medicine**

Chapter **Regulations Governing the Practice of Veterinary Medicine [18 VAC 150 - 20]**

All good comments for this forum Show Only Flagged

Back to List of Comments

Commenter: Keith Richardson 10/20/17 10:52 pm

Reply

I opposes this petition for rule making allowing veterinary assistants to administer by any means

Commenter: Danielle 11/9/17 12:41 pm

All vets carry schedule VI meds

I don't think the wording should be changed to include assistants in having access/administering controlled drugs. Schedule VI drugs are all meds that require a prescription that are not controlled so every vet office carries them.

Commenter: Jan Larsen, DVM 11/13/17 11:15 am

Controlled Substance Handling

In this day and age when, due to the human abuse potential, authorities threaten to remove the veterinarian's ability to utilize effective opioid analgesics in our patients, it seems counter-productive to lessen restrictions regarding who may handle those same substances. I strongly believe that only licensed personnel should be permitted to handle DEA Controlled Substances. We don't even let non-licensed personnel administer rabies vaccines, but they should be able to handle controlled substances? No. Absolutely too much risk of abuse.

Commenter: Virginia Association of Licensed Veterinary Technicians 11/14/17 12:08 pm

The VALVT firmly opposes Petition 261

Virginia Association of Licensed Veterinary Technicians

3801 Westerre Pkwy D, Henrico, VA 23233

(804) 346-2611

11/13/2017

The VALVT firmly opposes Petition 261 submitted by Claire Webster: To authorize the delegation of administration of Schedule II-V drugs by any route to an unlicensed assistant under the direction and supervision of a veterinarian or a veterinary technician.

With the opioid crisis running rampant across the state and nation, allowing personnel who are not educated and trained to have access to the variety of drugs included in this petition is reckless and detrimental to the resolution of opioid access. Not only would this allow more people access to commonly abused drugs, it would allow those not versed in the pharmacological effects of these drugs to administer them to patients who could be adversely affected. The reasons the current language is in the regulations remain valid and we support not making a change.

The VALVT is strongly aware of the unmet demand for licensed veterinary technicians in the Commonwealth of Virginia. Allowing non-licensed personnel to handle and administer Schedule II-IV controlled substances is not a viable solution to this problem. Currently there are two programs in The Commonwealth for hands-on, AVMA accredited, campus-based training of veterinary technicians and over five distance education programs available. Hospitals who cannot hire LVTs have the opportunity to offer their long-term, valued employees access to these accredited, proven educational programs. There they will receive the education and training that busy practices are not equipped or qualified to provide. We are currently in a crisis in the Commonwealth of Virginia for licensed and dedicated team members for necessary patient care. Allowing unlicensed assistants to perform acts such as this is one of the top reasons LVTs leave the profession. It is demeaning to the profession and demonstrates a lack support from their veterinary colleagues. Attrition from the profession is key to the shortage of LVTs. Most people will agree that a lack of LVTs in practices puts patients and the entire veterinary profession at risk.

The VALVT values the entire veterinary team. We have not ever been adversarial toward veterinary assistants and value the contribution they make to patient care. We do highly encourage all veterinary hospitals with the shortage of licensed technicians to support students of veterinary technology, encourage staff to become licensed by offering formal AVMA accredited training and utilize assistants to the extent of the law and not beyond.

Changing regulations to make unlawful practices lawful is not a solution to a challenge that has existed for decades. We welcome the opportunity to partner with practices wishing to employ LVTs, access training in AVMA accredited programs for their valued employees or practice effectively and legally with unlicensed staff.

Thank you for your consideration,

The Virginia Association of Licensed Veterinary Technicians

Commenter: Fred Brown 11/14/17 2:10 pm

Opposition to proposed rule

To my knowledge, no other field permits this sort of transaction by untrained personnel – even under professional/licensed supervision. Petition 261 is a dangerous and negligent proposal. It does not specifically address the personnel shortages in the veterinary field. If anything the proposal opens doors to aggravate the ongoing opioid crisis and fails to consider how the current language might impose undue risk and liabilities upon DVMs & LVTs.e over this text and enter your comments here.

Commenter: Kris Keane 11/15/17 11:49 pm

Oppose

This petition is a bad idea on many levels.

Granting unlicensed individuals access to controlled drugs only opens the door for more abuse of drugs that are under scrutiny nationwide and are becoming less and less available to veterinary practices. Putting schedule II-V drugs in the hands of unlicensed assistants potentially puts patients at risk and threatens the trust that the public has in veterinary medicine.

The request to allow assistants to administer drugs by any route has been proposed countless times and has been denied. That should continue.

The level of supervision requested in the petition is not defined in the regulations governing the practice of veterinary medicine.

Virginia has long been know for being progressive and a leader in laws and regulations that protect the public and their pets. This would be a giant step backwards.

Agenda Item: **Adoption of Final Regulations Prescribing of Opioids**

Included in agenda package:

Copy of Proposed regulations

Copy of comment on the proposed regulations to replace the emergency regulations

Recommendations of the Regulatory Advisory Panel

Board action:

Adoption of final regulations to replace emergency regulations currently in effect

Project 5103 - Proposed

BOARD OF VETERINARY MEDICINE

Prescribing of opioids

18VAC150-20-174. Prescribing of controlled substances for pain or chronic conditions.

A. Evaluation of the patient and need for prescribing a controlled substance for pain.

1. For the purposes of this section, a controlled substance shall be a Schedules II through V drug, as set forth in the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia), which contains an opioid.

2. Nonpharmacologic and non-opioid treatment for pain shall be given consideration prior to treatment with opioids. Prior to initiating treatment with a controlled substance, as defined, the prescriber shall perform a history and physical examination appropriate to the complaint and conduct an assessment of the patient's history as part of the initial evaluation.

3. If a controlled substance is necessary for treatment of acute pain, the veterinarian shall prescribe it in the lowest effective dose appropriate to the size and species of the animal for the least amount of time. The dose shall not exceed a 14-day supply.

B. If the prescribing is within the accepted standard of care, a veterinarian may prescribe a controlled substance containing an opioid for management of chronic pain, terminal illnesses, or certain chronic conditions, such as chronic heart failure, chronic bronchitis, osteoarthritis, collapsing trachea, or related conditions.

1. For prescribing a controlled substance for management of pain after the initial 14-day prescription referenced in subsection A of this section, the patient shall be seen and evaluated for the continued need for an opioid.

2. For any prescribing of a controlled substance beyond 14 days, the veterinarian shall develop a treatment plan for the patient, which shall include measures to be used to determine progress in treatment, further diagnostic evaluations or modalities that might be necessary, and the extent to which the pain or condition is associated with physical impairment.

3. For continued prescribing of a controlled substance, the patient shall be seen and reevaluated at least every six months, and the justification for such prescribing documented in the patient record.

C. Prior to prescribing or dispensing a controlled substance, the veterinarian shall document a discussion with the owner about the known risks and benefits of opioid therapy, the responsibility for the security of the drug, and proper disposal of any unused drug.

D. Continuation of treatment with controlled substances shall be supported by documentation of continued benefit from the prescribing. If the patient's progress is unsatisfactory, the veterinarian shall assess the appropriateness of continued use of the current treatment plan and consider the use of other therapeutic modalities.

E. Prescribing of buprenorphine for outpatient administration shall only occur in accordance with the following:

1. The dosage, quantity, and formulation shall be appropriate for the patient; and

2. The prescription shall not exceed a seven-day supply. Any prescribing beyond seven days shall be consistent with an appropriate standard of care and only after a reexamination of the patient as documented in the patient record.

F. The medical record for prescribing controlled substances shall include signs or presentation of the pain or condition, a presumptive diagnosis for the origin of the pain or condition, an

examination appropriate to the complaint, a treatment plan, and the medication prescribed to include the date, type, dosage, and quantity prescribed.

Board of Veterinary Medicine
Summary of Comment on Proposed Regulations
Prescribing of Opioids

A public comment period on proposed regulations on prescribing opioids was open between December 11, 2017 and February 9, 2018.

There was a public hearing conducted before the Board on February 8, 2018, at which Dr. Barnett spoke in support of the requirement to prescribe opioids in the lowest effective dose appropriate to the size and species of the animal for the least amount of time and for the dose not to exceed a 14-day supply.

Public comment received by email or regular mail included:

Commenter	Comment
Maurice Casey, DVM	Any animal on long-term opioids should be rechecked and evaluated at a minimum of every 3 months or even monthly for the first 6 months. Other modalities should be included in long-term pain management.
S. D. Foley, DVM	Does not believe regulations are necessary for veterinarians – imply that they do not use good judgment. Current protocols for managing pain without opioids; regs are aimed at post-operative pain management, which is always short term. Should set up a CE course to education veterinarians about the consequences of dispensing opioids and red flags to look for.
Eagle's Nest Animal Hospital	Commented in opposition to allowing national corporations to purchase veterinary practices
Jerry Hinn, DVM	Need a database similar to PMP for veterinary prescribing; Need to have a template of drug regulations incorporated into practice document to be signed by the client and practitioner Need to not make veterinary prescribers held to a more stringent standard than physicians
Lori Leonard, DVM	• No mention of extenuating circumstances allowing prescribing beyond initial 14-day supply • Not clear when patient must be seen and evaluated (B1) • Question about intermittent pain therapy – how it is recorded and managed • Physical impairment should be expanded to include mental and general impairment (B2) • No opioids are approved for animal use, so it is unknown how a vet can discuss risks and benefits • Recommends 14 days or more for prescribing buprenorphine, as determined by vet • Comments on proper disposal of drugs doesn't really give options; pharmacies and law enforcement don't take back drugs. Questions who has responsibility if drugs are dispensed by a pharmacy • Questions the VVMA and the AAHA and malpractice carriers positions on regs • Questions position of Board of Pharmacy – these regs mandate certain actions when dispensing drugs, which is what pharmacists do; questions why vets are made to follow rules for handling, storage & dispensing of controlled substances • Asks about the penalty for not following the regulations • Asks about the re-evaluation – whether it must be in person or by electronic means

	• Asks about continuation of treatment beyond 14 days – Part B does not specigy number of days for continuation of treatment • Asks about extenuating circumstances mentioned in A3 • Asks about the reference for standard of care • Putting this burden on practicing veterinarians is unfair, as well as abdicating responsibility and accountability where it belongs
Lauri Fauss	Question about information provided to owners if more than one pet in a household is receiving opioid medication and about who signs forms
Va. Veterinary Medical Association	• Referenced legislation in 2018 General Assembly relating to requiring prescriptions in excess of 7 days to be dispensed by pharmacy; may need amendment to regs • A member requested clarification on prescribing buprenorphine over 7 days – is a reexamination required every 7 days or reevaluation (by phone) • Appreciate the need to limit the potential for human abuse while allowing vets to provide appropriate pain management

Public comment received through the Virginia Regulatory Townhall included:

Commenter	Comment
Tyler Carmack, DVM	Asks for amendment to buprenorphine section allowing for the use of buprenorphine for a period of longer than 7 days if being used for chronic, palliative care. All clients sign a pain management contract, modeled on similar contracts in human medicine, discussing the risks and benefits of opioid therapy, the responsibility for the security of the drug, and proper disposal of any unused drug.
Theresa Gray, LVT	Supports the changes in regulation
Megan Kees, DVM	Appreciated changing the prescribing standard from 7 to 14 days (emergency regs to proposed regs). Regs appear to be reasonable for management of chronic conditions.
Kelly Gottschalk, DVM	Situations in which buprenorphine is indicated for chronic use, so there should be extenuating circumstances beyond 7 days within a re-examination
Julie Carlisle	Questions whether pets should be microchipped to prevent owner from taking pet to multiple veterinarians for opioid medications
Danielle Russ, LVT	Agree with Dr. Carmack's comment – 14 days is more reasonable.
Elizabeth Arguelles, DVM	Provide an exception to the 7-days rule for buprenorphine for chronic pain and for hospice patient, allowing for a 14-day supply as long as a treatment plan is in place; require re-examination every 6 months
Sarah Sheafor, DVM	Same comment as above – allow exemption for cats with chronic/terminal illnesses with monthly recheck exams
Kathy Kallay, DVM	Requests waiver of limitation of days for prescribing if pet has a terminal condition (palliative care)
Caroline Pattie	Mandatory day 7-14 day limit on opiates is impractical for cats and large dogs with mobility issues. Have not had concerns about diversion issues with owners
Jason Bollenbeck, DVM	Supports tightening regulations but does not believe vets are part of the reason for the opioid crisis. Agrees with other comments about prescribing buprenorphine for cats, especially those chronically ill. Should be able to give a 30-day supply
Lori Leonard, DVA	Comments summarized above
Lauri Fauss	Comment summarized above

Public comment on Proposed Regulations for Opioid Prescribing

From: Maurice Casey [mailto:caseyvetservices1@gmail.com]
Sent: Friday, December 29, 2017 9:32 AM
To: Board of Veterinary, yy <vetbd@dhp.virginia.gov>
Subject: Re: Regulatory Action Public Comment Period

Personally, I feel any animal that needs to be on long term Opioid medication should be required to be rechecked and evaluated at a minimum of every 3 months. Realistically, they should be evaluated at least monthly for the first 6 months to see if the expected response to Opioid medication is being achieved and to tweak dosage to the minimum amount required for pain control. Physical therapy and acupuncture should also be included in the long term pain management as they can contribute positive response to pain.
Sincerely yours, Maurice F. Casey III D.V.M.

From: S.D.Foley [mailto:foleysandra05@gmail.com]
Sent: Thursday, December 28, 2017 9:53 PM
To: Board of Veterinary, yy <vetbd@dhp.virginia.gov>
Cc: foleysandra05@gmail.com
Subject: OPIOD DISCUSSION

MY OPINION IS WHERE IS THIS KNEE JERK REACTION COMING FROM. YES HUMAN DOC MAY HAVE DOUBTED THAT ANY OF THEIR PATIENTS MAY BECOME ADDICTED TO OPOIDS THEY PRESCRIBED.WELL NOW THEY KNOW THIESE OPOIDS CAN CAUSE PROFOUND ADDICTIONS. . WHEN YOU PASS A LAW THAT TELLS VETERINARIANS THEY DO NOT HAVE GOOD JUDGEMENT IN PRESCRIBING OPOIDS AND OF COURSE WHAT ARE THE LEGAL IMPLICATION HERE. CURRENT VETERINARY PAIN MANAGEMENT PROTOCOLS ARE USING NSAIDS & GABAPENTIN WITHOUT OPOIDS TO MANAGE CHRONIC PAIN.. THE PROPOSED LAW APPEARS TO BE SIGHTING IN AT POST OPERATIVE PAIN MANAGEMENT., WHICH IS ALWAYS SHORT TERM..

THE STATE OF FLORIDA BVM MANDATES ALL VETERINARIANS MUST HAVE A NUMBER OF HOURS OF CE CONCERNING PRESCRIBING DRUGS.. I CAN SEE THAT PART OF THIS IS AN AWARENESS BY VETERINARIANS THAT PRESCRIBING CONTROLLED DRUGS HAS A LAGE RESPONSIBILITY THAT THOSE DRUGS ARE NOT DIVERTED & USED BY CLIENTS OR WORSE THE CLIENT IS SELLING THE DRUGS ON THE STREET.. I FIND THAT A LOT OF MY CLIENTS WERE PRESCRIBED TRAMADOL AND WHEN WE MAY PRESCRIBE IT FOR THEIR PET . THAT MAY BE A RED FLAG WE NEED TO PAY ATTENTION TOO. RECENTLY MY CLIENTS ARE SAYING THEY TAKE GABAPENTIN AND NOT TRAMADOL, WHICH MAY BE AN ATTEMPT BY THE HUMAN DOCS AT REDUCING "OPOIDS" PRESCRIBING .

SO I THINK . SETTING UP A " OPOID " CE COURSE DESIGNED TO EDUCATE VETERINARIANS ABOUT THE CONSEQUENCES MEDICALLY & LEGALLY OF

DISPENSING OPOIDS AND WHAT RED FLAGS TO LOOK FOR IN CLIENTS. ALSO TO INCLIDE BEST PRACTICES IN PAIN MANAGEMENT FOR CATS & DOGS.. THIS " COURSE WOULD BE MANDATORY AND UPDATED YEARLY.

2 YEARS AGO DR X AT THEN X VETERINARY HOSPITAL HAD 2 EMPLOYEES STEAL TRAMADOL.. DR. X HAD PREVIOISLY INSTALLED A CAMERA TO RECORD ACTIVITY IN THE PHARMACY.. THIS FILMING WAS VALUABLE IN CONVICTING THE EMPLOYEES.. THE RESULT OF THIS THEFT WAS GETTING A DEA "APPROVED DRUG STORAGE "BOX" AND BOLTING THE BOX TO THE COUNTER AND ALSO HAVING A LOICK BOX IN THE REFRIGERATOR PLUS A LOCK ON THE REFRIGERATOR. THE SMALL PHARMACY ALREADY HAD A LOCKABLE ENTRY DOOR. DR. X CONSIDERED REMOVING TRAMADOL FROM THE INVENTORY. AFTER THIS INCIDENT TRAMADOL PRESCRIBING BECAME VERY RESTRICTIVE AND OTHER DRUGS LIKE GABAPENTIN WERE USED.

LASTLY IS THIS A TREND WITH VETERINARY BOARDS IN OTHER STATES. CERTAIN STATES ARE HAVING MORE OPOID ODS THUS "CRISIS" THAN OTHERS. OF COURSE OPOID ADDICTS HAS MANY SIDE EFFECT: HOMELESSNESS, POVERTY, CRIMINAL ACTIVITY AND IS A SAD STATEMENT ON THE FAILURE OF HUMAN MEDICINE TO HAVE NOT ADDRESSED THIS BEFORE THE CRISIS IT IS . DRUG MANUFACTURERS MUST BEAR SOME RESPONSIBILITY FOR THIS WHICH THEY WILL NEVER ADMIT DUE TO THEIR METHODS

SINCERELY
JAMES FOLEY DVM
PENIINSULA VETERINARY RELIEF SERVICE
74 CEDAR RD
POQUOSON, VA
23662

From: Eagle's Nest Animal Hospital [mailto:eaglesnestah@gmail.com]
Sent: Friday, December 29, 2017 10:25 AM
To: Board of Veterinary, yy <vetbd@dhp.virginia.gov>
Subject: Re: Regulatory Action Public Comment Period

As a veterinary practice manager, and a person who is married to a veterinarian I feel that the veterinarians of the last 20 years are destroying the veterinarians of the future. We have all seen human doctors give control of their businesses to insurance companies and practice management corporations. With it appointments grow shorter, rules increase, pro bono work disappears and everything is replaced with the pursuit of profit. Years ago I read in the rules and regulations of several states, and I thought Virginia was one, that Veterinary Practices MUST be owned by veterinarians. Today with national corporations buying practices left, right and center it seems that no longer is a requirement. Young vets come out of school with more and more debt, and less and less wage growth, because they have less and less chance of being a practice owner. I

understand that veterinarians like doctors, dentists and other professionals are not business experts, but the knowledge they need is not secret, it is not difficult and frankly is easy to share. If the Board doesn't address this issue in the not so distant future you will have the Dollar Vet inside the Super Walmart. Perhaps this will be good for the public, I doubt it will be good for veterinarians.

From: Jahinn [mailto:jahinn@aol.com]
Sent: Thursday, January 4, 2018 10:49 AM
To: Knachel, Leslie (DHP) <leslie.knachel@DHP.VIRGINIA.GOV>
Subject: Dear Ms. Knachel

Please provide the following thoughts to the upcoming 2/8/18 Public Hearing:

1) Need for a part of the Board's Website where practitioners can go to see posting by other practitioners where substance abuse have been a concern and a prescriber has denied future refills. This would be similar to a human pharmacy data base PMP.
2) Need to have a template of these control drug regulations that could be incorporated into every practices documents that is signed by the client as well as the practitioner.
3) Need to not make veterinary prescribers to be held to a more stringent standard than physicians.

Thanks in advance and please feel free to call and discuss.

Sincerely,

Jerry Hinn
(703) 380-5964

FROM: Lori D. Leonard, DVM
SUBJ: Proposed Changes to Emergency Regs
TO: VA Vet Board %Leslie Knachel (sent by email)

1st February 2018

Regarding the proposed changes to the emergency regulations 18VAC150-20-174, I have the following comments in addition to my letter mailed to you, dated 19 Dec 17:

- "A3" changes from 7 day supply initially to a 14 day supply. But there is now no mention of extenuating circumstances being allowed, to exceed the initial 14 day supply.
- "B1" patient shall be seen and evaluated; it is not clear when this evaluation needs to take place (i.e., initial visit, at 14 days then at 6 months from the initial date, or 6 months from the 14 day date?)
- If the patient is on intermittent (as needed) pain therapy, how are these records and dates managed? For example, Fido gets 7 days' worth of meds on the first of the month. He is fine until 6 weeks later, when his owner requests a refill. On that 6 week date, can this be considered "prescribing beyond 14 days"? Does there need to be another evaluation and the clock begins again? If there is a holiday or weekend, how much leeway do we have in managing these numbers of days in the patient record? Can the eval be on day 17? Can it be on day 10 because the people are going on a trip and will not be able to pick up a refill on day 14? We need clear guidance in the field on these particulars so that we may comply with the regulations. There must be transparency with this so that all parties understand and agree upon the rules and it is not left up to interpretation by attorneys in case law.

- "B2" pertains to physical impairment; I recommend that mental and general impairments be added to this; lethargy and anorexia are well-documented signs of pain that do not involve a physical impairment. Often, pain in domestic animals is not related solely to physical changes.
- "C" we have to discuss with the owner the known risks and benefits of opioids in animals. Since no opioids have been approved for use in animals, the drugs are all being used in an extra-label manner. Who will tell us what constitutes the known risks and benefits of these drugs in animals? Who determines this, and by what method is it determined?
- "E2" buprenorphine; I recommend that this be changed to allow 14 days or more as determined by the patient and the vet and client.
- Related to proper disposal, what are the real options for clients? The handout that we are instructed to give to clients does not provide actual options. It directs clients to go to a website for more information.
- My local pharmacies and sheriff's office do NOT take back any drugs.
- Who has the burden of discussing and documenting these items with the owner when there is an off-site (online, or retail/compounding) pharmacy filling the prescription? The pharmacists with whom I have discussed these regulations are not aware of these regulations.
- What is VVMA's position statement on these regs?
- What is AAHA's position statement on these regs?
- What is the malpractice insurance company position statement on these regs?
- What is the VA Board of Pharmacy's position statement on these regs, since veterinarians are not bound by the pharmacy regulations? Yet, these regulations clearly mandate certain actions veterinarians must take/document when dispensing controlled drugs. That is something pharmacists do. Veterinarians are not pharmacists, according to the Commonwealth of Virginia. So why are we veterinarians being made to follow emergency regulations/proposed changes to same that concern the handling, storage, and dispensing of controlled substances?

As I stated in my letter, the opioid epidemic is related to heroin and fentanyl in HUMANS. It is not related to tramadol in dogs. With a regulation that states "if the prescribing is within the accepted standard of care"; this is prejudicial, confrontational, and insulting at the very least. Here we are, trying to provide comfort and relieve pain and suffering in the ANIMALS, and we are being told how to do this. Where and what exactly is the accepted standard of care? These drugs, as far as I know, have not been tested in animals so no one really knows the risks and benefits. How are we supposed to know what they are? Furthermore, why are we being mandated to explain these unknowns to the pet owning public? Where and what is the evidence base for opioid use in animals? To put this burden on practicing veterinarians is unfair, as well as abdicating responsibility and accountability where it belongs.

From: Stonewall Vet Accounting [mailto:accounting@stonewallvet.com]
Sent: Monday, February 5, 2018 11:12 AM
To: Board of Veterinary, yy <vetbd@dhp.virginia.gov>
Subject: Opiod dispense

Good morning,

I would like to request a little clarification on opiod dispensing. We currently have owners review and sign a form, which we created by excerpting information from the regulations and some additional information pertaining to our clinic, when we dispense an opiod for their pet. Some households have more than one pet that require opiods. We are dispensing medication for each pet per the regulations, but we are unsure whether we need a form for every pet .... Or if one for per household is appropriate. Please advise.

We also take care of animals for two dog and one cat rescue. Do we need a form for each animal, or is one per rescue group sufficient? Who needs to sign the form? (Director?, Facility manager/Caregiver?)

We have currently been requiring one form per household and rescue group, but want to make sure we are appropriate.

Thank you,
Lauri Fauss

Ms. Leslie Knachel, Director
Virginia Board of Veterinary Medicine
Virginia Department of Health Professions
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233

Dear Leslie,

The Virginia Veterinary Medical Association (VVMA) offers the following comments regarding the proposed regulations governing the prescribing of controlled substances for pain and chronic conditions, 18VAC150-20-174.

In Section A, Item 3, veterinarians are authorized to prescribe up to 14 days of a controlled substance. Legislation is pending in the 2018 Session of the General Assembly that would require prescriptions of controlled substances over 7 days to be filled at pharmacies. Should this legislation pass the Assembly, it might be helpful to include a reference to this new requirement if the legislative action is completed before the regulations become final. There could be some confusion since veterinarians can write the prescription for up to a 14 day time period in these regulations, but they may be limited by the pending legislation to dispensing only 7 days from the clinic.

In Section E, Item 2, a VVMA member requested clarification regarding the prescription of buprenorphine over 7 days. In the emergency regulations, it was her understanding that they allowed for a "reevaluation" (i.e. by phone) for prescribing beyond the 7 days. These final regulations now say "reexamination." Was this the intent of the emergency regulations even though it did not say "reexamination," or is this a change in policy from the emergency regulations to the final regulations? Is the correct interpretation that an exam for buprenorphine beyond 7 days would require a physical examination every 7 days? Guidance on this issue would be helpful and appreciated.

While a number of veterinarians do not feel that opioid use in the profession is contributing to the current abuse epidemic, we realize the routine prescribing of opioids to animals creates the potential of diversion from the patient to the owner or another individual. We appreciate the Board of Veterinary Medicine working with the VVMA and practitioners across the Commonwealth to craft regulations that attempt to limit the potential for human abuse while allowing veterinarians to provide the best pain management for their patients, without being too burdensome on the profession.

Sincerely,

Susan Seward
Legislative Consultant
Virginia Veterinary Medical Association

Lori Leonard, DVM
P.O. Box 787
Concord, VA 24538

19 December 2017

Board of Veterinary Medicine
9960 Mayland Drive, Suite 300
Henrico, VA 23233

Dear Board:

I would like clarification about the emergency regulations and 18VAC150-20-174.

Who will be enforcing these regulations? What is the penalty for not following them? What is the name of the offense if the regulation is not followed?

For number 4, can the re-evaluation be done in person, on the phone, by email, or text, video, or via Skype?

Part B specifies continuation of treatment beyond 14 days. Part D does not specify the number of days for continuation of treatment. What is the specific number of days for continuation of treatment, with regard to part D?

For part A3, what is the definition of "extenuating circumstances"?

For part E2, what is the exact wording and source of the referenced standard of care?

These regulations are an attempt to be part of the solution to the human opioid crisis in the United States. However, the use of tramadol in dogs is NOT the reason for the opioid crisis. The crisis is due to the illegal use of heroin and this has nothing to do with veterinary medicine. These regulations place an undue burden on veterinarians and our clients, when we are providing quality of life for the animals.

I look forward to your prompt reply to my concerns.

Sincerely,

Lori D. Leonard

LORI D. LEONARD, DVM

Virginia.gov Agencies | Governor

Logged in as
Elaine J. Yeatts

Agency Department of Health Professions

Board Board of Veterinary Medicine

Chapter Regulations Governing the Practice of Veterinary Medicine [18 VAC 150 - 20]

Action	Prescribing of opioids
Stage	Proposed
Comment Period	Ends 2/9/2018

All good comments for this forum Show Only Flagged

Back to List of Comments

Commenter: Tyler Carmack, Hampton Roads Veterinary Hospice 12/28/17 9:17 pm

Chronic buprenorphine

I would request a statement similar to the one below in the buprenorphine section allowing for the use of buprenorphine for a period of longer than 7 days if being used for chornic, palliative care. Although it is not used often, I have used chronic buprenorphine for renal failure cats with severe arthritis that cannot be managed on other available pain medications. We see these cats at least monthly and continue to monitor pain and quality of life. All clients sign a pain managment contract, modeled on similar contracts in human medicine, discussing the risks and benefits of opioid therapy, the responsibility for the security of the drug, and proper disposal of any unused drug.

For any prescribing of a controlled substance beyond 14 days, the veterinarian shall develop a treatment plan for the patient, which shall include measures to be used to determine progress in treatment, further diagnostic evaluations or modalities that might be necessary, and the extent to which the pain or condition is associated with physical impairment.

For continued prescribing of a controlled substance, the patient shall be seen and reevaluated at least every six months, and the justification for such prescribing documented in the patient record.

Commenter: Theresa Gray, LVT 12/29/17 11:22 am

Agree

i day YES to the changeThe proposed new text seems to be what a lot of veterinarians are already doing. Yes, owners don't like bringing their pet for a reevaluation they think the practice is only doing it to make money. But when the dr has the owner sign the pain management contract they should be briefed about the fact it's the Law. Most owners will have no issues, those who do will NOT get their medication for their pet and documention should be noted. I say YES to the change. Maybe add that any dr found not complying will be fined and may have their license suspended or revoked.

Commenter: Megan Kees 12/30/17 11:21 am

ER perspective

Thank you for seeking public comment on this regulation. I'm an emergency veterinarian in NoVA and wanted to say that I appreciate extending prescriptions from 7 days to 14 days as I feel this helps post-op patients who may need pain medication for a bit longer. I'm not often involved in chronic pain management or hospice care, as I tend to refer owners back to their primary care veterinarians for that, but I do appreciate the provision allowing for chronic administration of these medications not just for chronic pain, but for conditions requiring cough suppression. I feel that these regulations are very reasonable in stipulating for rechecks and monitoring to document continued need for opioid based medications.

Commenter: Kelly Gottschalk, DVM 12/30/17 11:29 am

Chronic buprenorphine use in feline patients

I support the regulations as written with one exception. It is very rare, but due to unique features of feline metabolism and pain relief challenges, there are times when chronic use of buprenorphine is indicated. Under item E. 2. , I think there should be provision for extending buprenorphine use beyond 7 days without a re-examination. As written, it could be interpreted that an examination would be required every 7 days.

Commenter: Julie Carlisle 1/2/18 11:39 am

Microchipping pets requiring chronic opiods?

Hate to bring this up, but what prevents a client from taking their pet to multiple vets for controlled substance dispensing. Should these pets be microchipped and entered into some kind of database to prevent this?

Commenter: Danielle Russ, LVT, BS, BA, AS 1/2/18 3:57 pm

Comments re: revision

14 days is more reasonable and I second Dr. Carmack's comments.

Thanks, Dani

Commenter: Elizabeth Arguelles, DVM - Just Cats Clinic, Reston, VA 1/3/18 2:05 pm

chronic use of buprenorphine in feline patients

The way the proposed regulation is written it places a significant burden on veterinarians treating feline patients and owners of feline patients. Buprenorphine is the most commonly used pain medication in feline patients because it is effective, safe, easy for owners to administer, and reasonably priced. Other alternatives like NSAIDs carry a greater risk to the feline patient and many owners refuse to use them. Having to bring a feline patient back to the clinic after only 7 days of treatment will cause cats to suffer from pain as owners will simply not bring them back due to the hassle.

I urge the regulatory committee to provide an exception to the 7 day rule for buprenorphine for chronic pain (arthritis, pancreatitis) and for hospice patients allowing a 14 day supply to be obtained at each refill as long as there is a treatment plan in place and there is a valid client-patient relationship. For patients with chronic conditions or under hospice treatment, physical exams could be required every 6 months instead of yearly.

Commenter: Dr. Kathy Kallay, Four Paws Animal Hospital 1/8/18 5:11 pm

comment on dispensing opioids

I think there should be a waiver on the limitation of 7 and 14 days for initial dispensing of opioids if a pet is diagnosed with a terminal condition.

I already had a case where I diagnosed a dog with end stage cancer and dispensed opioids for pain control. This dog was in a lot of pain, and I was forced to make the dog and owner return in 7 days for another recheck exam. I felt horrible putting the dog through this.

If a pet is terminal and the focus is palliative care only, it is cruel to make the pet return to the office in such a short time frame.

Commenter: Dr. Sarah Sheafor, DACVIM(Oncology), VCA SouthPaws Oncology 1/9/18 12:34 pm

Cats often need chronic buprenorphine therapy

Older cats with osteoarthritis or chronic pancreatitis, as well as those who have oral cancers and many other cancerous conditions may require chronic narcotic therapy -- and buprenorphine is the safest, most effective and if used transbuccallly, the easiest for owners to administer. While we may be seeing these cats regularly (weekly initially in treatment, then often monthly once treatment is complete), cats and their owners do not appreciate having to come in to the hospital for a physical exam weekly just to continue their necessary pain medications. I would urge the Board to make an exemption for cats with chronic, debilitating, painful, and terminal illnesses allowing veterinarians to be able to prescribe and dispense buprenorphine for longer than seven days. Monthly recheck exams would enable us to maintain good control of these tiny volumes of dispensed buprenorphine, as well as enabling us to check on a patient's welfare and adjust treatment plan to suit.

Commenter: Caroline Pattie 1/18/18 1:28 pm

Please write exemption on time limits for certain cases

I believe a mandatory 7-14 day limit on opiates is highly impractical for many feline patients due to behavior/anxiety with transport out of the home environment or for large dogs with serious mobility issues. The drug I see this most referring to would be buprenorphine or tramadol for chronic pain conditions. In general I have a very good grasp on those particular cases who get larger

prescriptions at a time and pay attention to the timelines for amounts prescribed vs. refills ordered and have not gotten any feelings of diversion from my personal experience with our clients.

Commenter: Jason Bollenbeck, DVM 1/31/18 3:39 pm

Support with changes

Overall I support tightening regulations on dispensed schedule II-IV drugs. However, I do not feel veterinarians are part of the reason for the opioid crisis in the Common Wealth or in the country, but we should safe guard that we don't become part of the problem. I think tightening dispensed duration and quantity is good as well as re-evaluation time periods and documentation. I do agree with other comments that extending the Buprenex dispense duration and re-examination requirements for chronically ill cats would improve care and quality of life, especially since quantity and strength is so low. To re-examine a cat every 7 days for Buprenex is not practical. For documented chronically ill cats, a 30 days supply followed by a re-examination is more reasonable with a maximum dispensed amount of 3mg (10 ml of 0.3mg/.ml) per 30 days. Well below the abusable amount for a human.

Commenter: Lori Leonard, DVM 2/1/18 11:02 pm

Questions & Concerns

Part D does not specify the number of days of continuation of treatment, whereas Part B specifies continuation of treatment beyond 14 days. What is the specific number of days with regard to part D? Can the re-evaluations be done in person, on the phone, by email, or text, video, or Skype? What is the name of the offense if these regulations are not followed? In the proposed changes, there is now no mention of extenuating circumstances being allowed in part A3. This needs to be included but also defined. Part C states that we have to discuss known risks and benefits of these drugs with owners. Since these drugs are being used in an extra-label manner and none has been approved for use in animals, who will tell us what constitutes the known risks and benefits of these drugs in animals? We are being expected to explain something for which there is no evidence base. For E2, this should be changed to allow 14 days or more as determined by the patient and the vet and the owner. Related to proper disposal, what are real options for clients/owners? The handout that we are instructed to give to clients does not provide actual options. It directs clients to go to a website for further information. Who has the burden of discussion and documentation when there is an off-site pharmacy filling these prescriptions? We need clear guidance related to documenting and managing the various numbers of days in the regulations/proposals related to initial visit and re-evaluations. Real life does not happen on day 1, day 7, and day 14. How much leeway do we have to accomodate patients and clients/owners around work schedules, holidays, travel, and so on? If Fido gets 7 days' worth of meds and doesn't need them again until 6 weeks later, is this 6 week date considered "prescribing beyond 14 days"? Or is it considered to be an initial evaluation and we all have to start over with documentation and rule-following? These regulations place an undue and misplaced burden on veterinarians who want to relieve pain and suffering in animals. We are not the source of the opioid addiction crisis in humans. They are abusing heroin and fentanyl according to reports of which I am aware.

Commenter: Lauri Fauss, Stonewall Veterinary Clinic 2/5/18 5:04 pm

Owner notification form

We have created a form for our clients to sign which includes information about the dispensing regulations, disposal information and recheck requirements. We are unclear as to how often such

a form should be renewed (yearly?) and whether it applies to individual patients or whether it applies to individual clients (who may have multiple pets on opiods). We also provide care for rescue groups who periodically have patients that require opiod dispenses. Do we need to create a form for each patient or for the rescue group itself ... and who should sign the form (Director of resuce, Kennel manager or foster)?

All pertient medical information (diagnosis, dispense, recheck requirments, etc.) are recorded in each patient's chart, as per the regulations. Our form is silimar in content to the "Prescription Medication Safety for Veterinarians" form on the DPH website. The owner signs to acknowledge that they have recieved and understand the information.

BOARD OF VETERINARY MEDICINE
PUBLIC HEARING ON PROPOSED REGULATIONS
DEPARTMENT OF HEALTH PROFESSIONS
FEBRUARY 8, 2018

TIME AND PLACE:	The Public Hearing was called to order at 8:50 a.m. The purpose of the hearing was to receive public comment on the proposed regulations for prescribing opioids.
PRESIDING OFFICER:	Mary Yancey Spencer, J.D., Citizen Member
MEMBERS PRESENT:	Ellen G. Hillyer, DVM
STAFF PRESENT:	Leslie Knachel, Executive Director Carol Stamey, Operations Manager
OTHERS PRESENT:	Nancy Barnett, DVM
PUBLIC COMMENT:	Dr. Barnett presented comment in support of the current draft language regarding 18VAC150-20-174(A)(3).
ADJOURNMENT:	With no further comment received, the hearing adjourned at 9:06 a.m.

Mary Yancey Spencer, J.D.
Board Member

Date

Leslie L. Knachel, M.P.H
Executive Director

Date

Excerpt from the *Regulations Governing the Practice of Veterinary Medicine*

18VAC150-20-185. Renewal of veterinary establishment registrations.

A. Every veterinary establishment shall be required to renew the registration by January 1 of each year and pay to the board a registration fee as prescribed in 18VAC150-20-100.

B. Failure to renew the establishment registration by January 1 of each year shall cause the registration to expire and become invalid. Practicing veterinary medicine in an establishment with an expired registration may subject a licensee or registration holder to disciplinary action by the board. The registration may be ~~reinstated~~ renewed ~~without reinspection~~ within 30 days of expiration, provided the board receives a properly executed renewal application, renewal fee, and a late fee as prescribed in 18VAC150-20-100.

C. Reinstatement of an expired registration after 30 days shall be at the discretion of the board and contingent upon a properly executed reinstatement application ~~reinspection~~ and payment of the late fee, the reinspection fee, the renewal fee and the veterinary establishment registration reinstatement fee.

Guidance document: 150-8

Adopted: May 17, 2012
Revised: ~~October 25, 2017~~
March 15, 2017

VIRGINIA BOARD OF VETERINARY MEDICINE

DISPOSITION OF CASES INVOLVING PRACTICING ON AN EXPIRED LICENSE OR REGISTRATION

The Board adopted the following guidelines for resolution of cases of practicing with an expired license or permit:

Practicing with an Expired Individual License

Veterinarian
(Veterinarian-in-Charge may be subject to disciplinary action for allowing unlicensed persons to practice)

Cause	Possible Action
First offense; 31days or less	Confidential Consent Agreement
First offense; 32 days to one year	Consent Order; Monetary Penalty of $500
First offense; more than one year	May result in the Board holding an informal conference
Second offense; one or more days	Consent Order; Monetary Penalty of $1000 or may result in the Board holding an informal conference

Veterinary Technician/Equine Dental Technician

Cause	Possible Action
First offense; 31days or less	Confidential Consent Agreement
First offense; 32 days to one year	Consent Order; Monetary Penalty of $250
First offense; more than one year	May result in the Board holding an informal conference
Second offense; one or more days	Consent Order; Monetary Penalty of $500 or may result in the Board holding an informal conference

Practicing with an Expired Veterinary Establishment Permit

Veterinary Establishment

Cause	Possible Action
First offense; 31days or less	~~Confidential Consent Agreement;~~ Advisory letter; ~~$185~~ 275 fee associated with late renewal
First offense; 32 days to one year	Confidential Consent ~~Order~~ Agreement; ~~Monetary Penalty of $500;~~ re-inspection; $650 fee associated with ~~re-inspection and~~ reinstatement
First offense; more than one year	Consent Order; Monetary Penalty of $500 or may result in the Board holding an informal conference; ~~May result in the Board holding an informal conference; re-inspection;~~ $650 fee associated with ~~re-inspection and~~ reinstatement
Second offense; one or more days	Consent Order; Monetary Penalty of $1000 or may result in the Board holding an informal conference; $650 fee associated with ~~re-inspection and~~ reinstatement ~~and fees associated with late renewal or reinstatement is based on number of days that the permit is expired.~~

~~Note: Per 18VAC150-20-185(C) of the *Regulations Governing the Practice of Veterinary Medicine*, "Reinstatement of an expired registration after 30 days is at the discretion of the board and contingent upon a reinspection and payment of the late fee, the reinspection fee the renewal fee and the veterinary establishment permit reinstatement fee.~~

Veterinarian-in-Charge

Cause	Possible Action
First offense; 31days or less	Confidential Consent Agreement
First offense; 32 days to one year	Consent Order; Monetary Penalty of $500
First offense; more than one year	May result in the Board holding an informal conference
Second offense; one or more days	Consent Order; Monetary Penalty of $1000 or may result in the Board holding an informal conference

Virginia Board of Medicine

Telemedicine

Section One: Preamble.

The Virginia Board of Medicine ("Board") recognizes that using telemedicine services in the delivery of medical services offers potential benefits in the provision of medical care. The appropriate application of these services can enhance medical care by facilitating communication between practitioners, other health care providers, and their patients, prescribing medication, medication management, obtaining laboratory results, scheduling appointments, monitoring chronic conditions, providing health care information, and clarifying medical advice. With the exception of prescribing controlled substances, the Virginia General Assembly has not established statutory parameters regarding the provision and delivery of telemedicine services. Therefore, practitioners must apply existing laws and regulations to the provision of telemedicine services. The Board issues this guidance document to assist practitioners with the application of current laws to telemedicine service practices.

These guidelines should not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not authorized by law. In fact, these guidelines support a consistent standard of care and scope of practice notwithstanding the delivery tool or business method used to enable practitioner-to-patient communications. For the purpose of prescribing controlled substances, a practitioner using telemedicine services in the provision of medical services to a patient (whether existing or new) must take appropriate steps to establish the practitioner-patient relationship as defined in Virginia Code § 54.1-3303. A practitioner should conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation. As such, some situations and patient presentations are appropriate for the utilization of telemedicine services as a component of, or in lieu of, in-person provision of medical care, while others are not. The practitioner is responsible for making this determination, and in doing so must adhere to applicable laws and standards of care.

The Board has developed these guidelines to educate licensees as to the appropriate use of telemedicine services in the practice of medicine. The Board is committed to ensuring patient access to the convenience and benefits afforded by telemedicine services, while promoting the responsible provision of health care services.

It is the expectation of the Board that practitioners who provide medical care, electronically or otherwise, maintain the highest degree of professionalism and should:

- Place the welfare of patients first;
- Maintain acceptable and appropriate standards of practice;
- Adhere to recognized ethical codes governing the applicable profession;
- Adhere to applicable laws and regulations;

- In the case of physicians, properly supervise non-physician clinicians when required to do so by statute; and
- Protect patient confidentiality.

Section Two: Establishing the Practitioner-Patient Relationship.

The practitioner-patient relationship is fundamental to the provision of acceptable medical care. It is the expectation of the Board that practitioners recognize the obligations, responsibilities, and patient rights associated with establishing and maintaining a practitioner-patient relationship. Where an existing practitioner-patient relationship is not present,[1] a practitioner must take appropriate steps to establish a practitioner-patient relationship consistent with the guidelines identified in this document, with Virginia law, and with any other applicable law.[2] While each circumstance is unique, such practitioner-patient relationships may be established using telemedicine services provided the standard of care is met.

A practitioner is discouraged from rendering medical advice and/or care using telemedicine services without (1) fully verifying and authenticating the location and, to the extent possible, confirming the identity of the requesting patient; (2) disclosing and validating the practitioner's identity and applicable credential(s); and (3) obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of telemedicine services. An appropriate practitioner-patient relationship has not been established when the identity of the practitioner may be unknown to the patient.

Section Three: Guidelines for the Appropriate Use of Telemedicine Services.
The Board has adopted the following guidelines for practitioners utilizing telemedicine services in the delivery of patient care, regardless of an existing practitioner-patient relationship prior to an encounter.

Licensure:

The practice of medicine occurs where the patient is located at the time telemedicine services are used, and insurers may issue reimbursements based on where the practitioner is located. Therefore, a practitioner must be licensed by, or under the jurisdiction of, the regulatory board of the state where the patient is located and the state where the practitioner is located. Practitioners who treat or prescribe through online service sites must possess appropriate licensure in all jurisdictions where patients receive care. To ensure appropriate insurance coverage, practitioners must make certain that they are compliant with federal and state laws and policies regarding reimbursements.

Evaluation and Treatment of the Patient:

[1] This guidance document is not intended to address existing patient-practitioner relationships established through in-person visits.
[2] The practitioner must adhere not only to Virginia law defining a practitioner-patient relationship, but the law in any state where a patient is receiving services that defines the practitioner-patient relationship.

A documented medical evaluation and collection of relevant clinical history commensurate with the presentation of the patient to establish diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended/provided must be obtained prior to providing treatment, which treatment includes the issuance of prescriptions, electronically or otherwise. Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional, in-person encounters. Treatment, including issuing a prescription based solely on an online questionnaire, does not constitute an acceptable standard of care.

Informed Consent:

Evidence documenting appropriate patient informed consent for the use of telemedicine services must be obtained and maintained. Appropriate informed consent should, as a baseline, include the following:

- Identification of the patient, the practitioner, and the practitioner's credentials;
- Types of activities permitted using telemedicine services (e.g. prescription refills, appointment scheduling, patient education, etc.);
- Agreement by the patient that it is the role of the practitioner to determine whether or not the condition being diagnosed and/or treated is appropriate for a telemedicine encounter;
- Details on security measures taken with the use of telemedicine services, such as encrypting date of service, password protected screen savers, encrypting data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy notwithstanding such measures;
- Hold harmless clause for information lost due to technical failures; and
- Requirement for express patient consent to forward patient-identifiable information to a third party.

Medical Records:

The medical record should include, if applicable, copies of all patient-related electronic communications, including patient-practitioner communication, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions obtained or produced in connection with the utilization of telemedicine services. Informed consents obtained in connection with an encounter involving telemedicine services should also be filed in the medical record. The patient record established during the use of telemedicine services must be accessible to both the practitioner and the patient, and consistent with all established laws and regulations governing patient healthcare records.

Privacy and Security of Patient Records and Exchange of Information:

Written policies and procedures should be maintained for documentation, maintenance, and transmission of the records of encounters using telemedicine services. Such policies and procedures should address (1) privacy, (2) health-care personnel (in addition to the practitioner addressee) who will process messages, (3) hours of operation, (4) types of transactions that will be permitted electronically, (5) required patient information to be included in the communication,

such as patient name, identification number and type of transaction, (6) archival and retrieval, and (7) quality oversight mechanisms. Policies and procedures should be periodically evaluated for currency and be maintained in an accessible and readily available manner for review.

Section Four: Prescribing:

Prescribing controlled substances requires the establishment of a bona fide practitioner-patient relationship in accordance with § 54.1-3303 (A) of the Code of Virginia. Prescribing controlled substances, in-person or via telemedicine services, is at the professional discretion of the prescribing practitioner. The indication, appropriateness, and safety considerations for each prescription provided via telemedicine services must be evaluated by the practitioner in accordance with applicable law and current standards of practice and consequently carries the same professional accountability as prescriptions delivered during an in-person encounter. Where such measures are upheld, and the appropriate clinical consideration is carried out and documented, the practitioner may exercise their judgment and prescribe controlled substances as part of telemedicine encounters in accordance with applicable state and federal law.

Prescriptions must comply with the requirements set out in Virginia Code §§ 54.1-3408.01 and 54.1-3303(A). Prescribing controlled substances in Schedule II through V via telemedicine also requires compliance with federal rules for the practice of telemedicine. Practitioners issuing prescriptions as part of telemedicine services should include direct contact for the prescriber or the prescriber's agent on the prescription. This direct contact information ensures ease of access by pharmacists to clarify prescription orders, and further facilitates the prescriber-patient-pharmacist relationship.

For the purpose of prescribing Schedule VI controlled substances, "telemedicine services" is defined as it is in § 38.2-3418.16 of the Code of Virginia. Under that definition, *"telemedicine services," as it pertains to the delivery of health care services, means the use of electronic technology or media, including interactive audio or video, for the purpose of diagnosing or treating a patient or consulting with other health care providers regarding a patient's diagnosis or treatment. "Telemedicine services" does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire.*

Section Five: Guidance Document Limitations.

Nothing in this document shall be construed to limit the authority of the Board to investigate, discipline, or regulate its licensees pursuant to applicable Virginia statutes and regulations. Additionally, nothing in this document shall be construed to limit the Board's ability to review the delivery or use of telemedicine services by its licensees for adherence to the standard of care and compliance with the requirements set forth in the laws and regulations of the Commonwealth of Virginia. Furthermore, this document does not limit the Board's ability to determine that certain situations fail to meet the standard of care or standards set forth in laws and regulations despite technical adherence to the guidance produced herein.

Statutory references:

§ 54.1-3303. Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.

A. A prescription for a controlled substance may be issued only by a practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled substances, or by a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32. The prescription shall be issued for a medicinal or therapeutic purpose and may be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship.

For purposes of this section, a bona fide practitioner-patient-pharmacist relationship is one in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to his patient for a medicinal or therapeutic purpose within the course of his professional practice. In addition, a bona fide practitioner-patient relationship means that the practitioner shall (i) ensure that a medical or drug history is obtained; (ii) provide information to the patient about the benefits and risks of the drug being prescribed; (iii) perform or have performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; except for medical emergencies, the examination of the patient shall have been performed by the practitioner himself, within the group in which he practices, or by a consulting practitioner prior to issuing a prescription; and (iv) initiate additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. A practitioner who performs or has performed an appropriate examination of the patient required pursuant to clause (iii), either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically, for the purpose of establishing a bona fide practitioner-patient relationship, may prescribe Schedule II through VI controlled substances to the patient, provided that the prescribing of such Schedule II through V controlled substance is in compliance with federal requirements for the practice of telemedicine.

For the purpose of prescribing a Schedule VI controlled substance to a patient via telemedicine services as defined in § 38.2-3418.16, a prescriber may establish a bona fide practitioner-patient relationship by an examination through face-to-face interactive, two-way, real-time communications services or store-and-forward technologies when all of the following conditions are met: (a) the patient has provided a medical history that is available for review by the prescriber; (b) the prescriber obtains an updated medical history at the time of prescribing; (c) the prescriber makes a diagnosis at the time of prescribing; (d) the prescriber conforms to the standard of care expected of in-person care as appropriate to the patient's age and presenting condition, including when the standard of care requires the use of diagnostic testing and performance of a physical examination, which may be carried out through the use of peripheral devices appropriate to the patient's condition; (e) the prescriber is actively licensed in the Commonwealth and authorized to prescribe; (f) if the patient is a member or enrollee of a health plan or carrier, the prescriber has been credentialed by the health plan or carrier as a participating provider and the diagnosing and prescribing meets the qualifications for reimbursement by the health plan or carrier pursuant to § 38.2-3418.16; and (g) upon request, the prescriber provides patient records in a timely manner in accordance with the provisions of § 32.1-127.1:03 and all other state and federal laws and regulations. Nothing in this paragraph shall permit a prescriber to establish a bona fide practitioner-patient relationship for the purpose of prescribing a Schedule VI controlled substance when the standard of care dictates that an in-person physical examination is necessary for diagnosis. Nothing in this paragraph shall apply to: (1) a prescriber providing on-call coverage per an agreement with another

prescriber or his prescriber's professional entity or employer; (2) a prescriber consulting with another prescriber regarding a patient's care; or (3) orders of prescribers for hospital out-patients or in-patients.

Any practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than medicinally or for therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of controlled substances.

§ 54.1-3408.01. Requirements for prescriptions.

A. The written prescription referred to in § 54.1-3408 shall be written with ink or individually typed or printed. The prescription shall contain the name, address, and telephone number of the prescriber. A prescription for a controlled substance other than one controlled in Schedule VI shall also contain the federal controlled substances registration number assigned to the prescriber. The prescriber's information shall be either preprinted upon the prescription blank, electronically printed, typewritten, rubber stamped, or printed by hand.

The written prescription shall contain the first and last name of the patient for whom the drug is prescribed. The address of the patient shall either be placed upon the written prescription by the prescriber or his agent, or by the dispenser of the prescription. If not otherwise prohibited by law, the dispenser may record the address of the patient in an electronic prescription dispensing record for that patient in lieu of recording it on the prescription. Each written prescription shall be dated as of, and signed by the prescriber on, the day when issued. The prescription may be prepared by an agent for the prescriber's signature.

This section shall not prohibit a prescriber from using preprinted prescriptions for drugs classified in Schedule VI if all requirements concerning dates, signatures, and other information specified above are otherwise fulfilled.

No written prescription order form shall include more than one prescription. However, this provision shall not apply (i) to prescriptions written as chart orders for patients in hospitals and long-term-care facilities, patients receiving home infusion services or hospice patients, or (ii) to a prescription ordered through a pharmacy operated by or for the Department of Corrections or the Department of Juvenile Justice, the central pharmacy of the Department of Health, or the central outpatient pharmacy operated by the Department of Behavioral Health and Developmental Services; or (iii) to prescriptions written for patients residing in adult and juvenile detention centers, local or regional jails, or work release centers operated by the Department of Corrections.

B. Prescribers' orders, whether written as chart orders or prescriptions, for Schedules II, III, IV, and V controlled drugs to be administered to (i) patients or residents of long-term care facilities served by a Virginia pharmacy from a remote location or (ii) patients receiving parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion therapy and served by a home infusion pharmacy from a remote location, may be transmitted to that remote pharmacy by an electronic communications device over telephone lines which send the exact image to the receiver in hard copy form, and such facsimile copy shall be treated as a valid original prescription order. If the order is for a radiopharmaceutical, a physician authorized by state or federal law to possess and administer medical radioactive materials may authorize a nuclear medicine technologist to transmit a prescriber's verbal or written orders for radiopharmaceuticals.

C. The oral prescription referred to in § 54.1-3408 shall be transmitted to the pharmacy of the patient's choice by the prescriber or his authorized agent. For the purposes of this section, an authorized agent of the prescriber shall be an employee of the prescriber who is under his immediate and personal supervision, or if not an employee, an individual who holds a valid license allowing the administration or dispensing of drugs and who is specifically directed by the prescriber.

Virginia Board of Dentistry

Teledentistry

Section One: Preamble.

The Virginia Board of Dentistry ("Board") recognizes that using teledentistry services in the delivery of dental services offers potential benefits in the provision of dental care. The appropriate application of these services can enhance dental care by facilitating communication between practitioners, other health care providers, and their patients, prescribing medication, medication management, obtaining laboratory results, scheduling appointments, monitoring chronic conditions, providing health care information, and clarifying dental advice. The Virginia General Assembly has not established statutory parameters regarding the provision and delivery of teledental services. Therefore, practitioners must apply existing laws and regulations to the provision of teledentistry services. The Board issues this guidance document to assist practitioners with the application of current laws to teledentistry service practices.

These guidelines should not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not authorized by law. In fact, these guidelines support a consistent standard of care and scope of practice notwithstanding the delivery tool or business method used to enable practitioner-to-patient communications. For clarity, a practitioner using teledentistry services in the provision of dental services to a patient (whether existing or new) must take appropriate steps to establish the practitioner-patient relationship as defined in Virginia Code § 54.1-3303 and conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation. As such, some situations and patient presentations are appropriate for the utilization of teledentistry services as a component of, or in lieu of, in-person provision of dental care, while others are not. The practitioner is responsible for making this determination, and in doing so must adhere to applicable laws and standards of care.

The Board has developed these guidelines to educate licensees as to the appropriate use of teledentistry services in the practice of dentistry. The Board is committed to ensuring patient access to the convenience and benefits afforded by teledentistry services, while promoting the responsible provision of health care services.

It is the expectation of the Board that practitioners who provide dental care, electronically or otherwise, maintain the highest degree of professionalism and should:

- Place the welfare of patients first;
- Maintain acceptable and appropriate standards of practice;
- Adhere to recognized ethical codes governing the applicable profession;
- Adhere to applicable laws and regulations;
- In the case of dentists, properly supervise non-dentist clinicians when required to do so by statute; and
- Protect patient confidentiality.

Section Two: Definitions.
For the purpose of these guidelines, the Board defines "teledentistry services" consistent with the definition of "telemedicine services" in § 38.2-3418.16 of the Code of Virginia. "Teledentistry services," as it pertains to the delivery of dental services, means the use of electronic technology or media, including interactive audio or video, for the purpose of diagnosing or treating a patient or consulting with other health care providers regarding a patient's diagnosis or treatment. "Teledentistry services" does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire.

Section Three: Establishing the Practitioner-Patient Relationship.
The practitioner-patient relationship is fundamental to the provision of acceptable dental care. It is the expectation of the Board that practitioners recognize the obligations, responsibilities, and patient rights associated with establishing and maintaining a practitioner-patient relationship.
Where an existing practitioner-patient relationship is not present,[1] a practitioner must take appropriate steps to establish a practitioner-patient relationship consistent with the guidelines identified in this document, with Virginia law, and with any other applicable law.[2] While each circumstance is unique, such practitioner-patient relationships may be established using telemedicine services provided the standard of care is met.

Specifically, Virginia Code § 54.1-3303(A) provides the requirements to establish a practitioner-patient relationship. *See* Va. Code § 54.1-3303(A).

A practitioner is discouraged from rendering dental advice and/or care using teledentistry services without (1) fully verifying and authenticating the location and, to the extent possible, confirming the identity of the requesting patient; (2) disclosing and validating the practitioner's identity and applicable credential(s); and (3) obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of teledental services. An appropriate practitioner-patient relationship has not been established when the identity of the practitioner may be unknown to the patient.

Section Four: Guidelines for the Appropriate Use of Teledentistry Services.
The Board has adopted the following guidelines for practitioners utilizing teledentistry services in the delivery of patient care, regardless of an existing practitioner-patient relationship prior to an encounter.

Licensure:
The practice of dentistry occurs where the patient is located at the time teledentsitry services are used, and insurers may issue reimbursements based on where the practitioner is located. Therefore, a practitioner must be licensed by, or under the jurisdiction of, the regulatory board of the state where the patient is located and the state where the practitioner is located. Practitioners who treat or prescribe through online service sites must possess appropriate licensure in all

[1] This guidance document is not intended to address existing patient-practitioner relationships established through in-person visits.
[2] The practitioner must adhere not only to Virginia law defining a practitioner-patient relationship, but the law in any state where a patient is receiving services that defines the practitioner-patient relationship.

jurisdictions where patients receive care. To ensure appropriate insurance coverage, practitioners must make certain that they are compliant with federal and state laws and policies regarding reimbursements.

Evaluation and Treatment of the Patient:
A documented dental evaluation and collection of relevant clinical history commensurate with the presentation of the patient to establish diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended/provided must be obtained prior to providing treatment, which treatment includes the issuance of prescriptions, electronically or otherwise. Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional, in-person encounters. Treatment, including issuing a prescription based solely on an online questionnaire, does not constitute an acceptable standard of care.

Informed Consent:
Evidence documenting appropriate patient informed consent for the use of teledentistry services must be obtained and maintained. Appropriate informed consent should, as a baseline, include the following:

- Identification of the patient, the practitioner, and the practitioner's credentials;
- Types of activities permitted using teledentistry services (e.g. prescription refills, appointment scheduling, patient education, etc.);
- Agreement by the patient that it is the role of the practitioner to determine whether or not the condition being diagnosed and/or treated is appropriate for a teledentistry encounter;
- Details on security measures taken with the use of teledentistry services, such as encrypting date of service, password protected screen savers, encrypting data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy notwithstanding such measures;
- Hold harmless clause for information lost due to technical failures; and
- Requirement for express patient consent to forward patient-identifiable information to a third party.

Dental Records:
The dental record should include, if applicable, copies of all patient-related electronic communications, including patient-practitioner communication, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions obtained or produced in connection with the utilization of teledentistry services. Informed consents obtained in connection with an encounter involving teledentistry services should also be filed in the dental record. The patient record established during the use of teledentistry services must be accessible to both the practitioner and the patient, and consistent with all established laws and regulations governing patient healthcare records.

Privacy and Security of Patient Records and Exchange of Information:
Written policies and procedures should be maintained for documentation, maintenance, and transmission of the records of encounters using teledentistry services. Such policies and procedures should address (1) privacy, (2) health-care personnel (in addition to the practitioner

addressee) who will process messages, (3) hours of operation, (4) types of transactions that will be permitted electronically, (5) required patient information to be included in the communication, such as patient name, identification number and type of transaction, (6) archival and retrieval, and (7) quality oversight mechanisms. Policies and procedures should be periodically evaluated for currency and be maintained in an accessible and readily available manner for review.

Prescribing:
Prescribing medications, in-person or via teledentistry services, is at the professional discretion of the prescribing practitioner. The indication, appropriateness, and safety considerations for each prescription provided via teledentistry services must be evaluated by the practitioner in accordance with applicable law and current standards of practice and consequently carries the same professional accountability as prescriptions delivered during an in-person encounter. Where such measures are upheld, and the appropriate clinical consideration is carried out and documented, the practitioner may exercise their judgment and prescribe medications as part of teledentistry encounters in accordance with applicable state and federal law.

Prescriptions must comply with the requirements set out in Virginia Code §§ 54.1-3408.01 and 54.1-3303(A). Additionally, practitioners issuing prescriptions as part of teledentistry services should include direct contact for the prescriber or the prescriber's agent on the prescription. This direct contact information ensures ease of access by pharmacists to clarify prescription orders, and further facilitates the prescriber-patient-pharmacist relationship.

Section Five: Guidance Document Limitations.
Nothing in this document shall be construed to limit the authority of the Board to investigate, discipline, or regulate its licensees pursuant to applicable Virginia statutes and regulations. Additionally, nothing in this document shall be construed to limit the Board's ability to review the delivery or use of teledentistry services by its licensees for adherence to the standard of care and compliance with the requirements set forth in the laws and regulations of the Commonwealth of Virginia. Furthermore, this document does not limit the Board's ability to determine that certain situations fail to meet the standard of care or standards set forth in laws and regulations despite technical adherence to the guidance produced herein.

Guidance document: 90-64

Revised:
Board of Medicine, June 22, 2017
Board of Nursing, July 18, 2017

Virginia Board of Medicine
Virginia Board of Nursing

Telemedicine for Nurse Practitioners

Introduction:

The Board of Nursing concurs with the Guidance Document adopted by the Board of Medicine for the use of telemedicine in the delivery of medical services for practice by nurse practitioners, as recommended by the Committee of the Joint Boards of Nursing and Medicine.

Section One: Preamble.

The Virginia Board of Medicine ("Board") recognizes that using telemedicine services in the delivery of medical services offers potential benefits in the provision of medical care. The appropriate application of these services can enhance medical care by facilitating communication between practitioners, other health care providers, and their patients, prescribing medication, medication management, obtaining laboratory results, scheduling appointments, monitoring chronic conditions, providing health care information, and clarifying medical advice. With the exception of prescribing controlled substances, the Virginia General Assembly has not established statutory parameters regarding the provision and delivery of telemedicine services. Therefore, practitioners must apply existing laws and regulations to the provision of telemedicine services. The Board issues this guidance document to assist practitioners with the application of current laws to telemedicine service practices.

These guidelines should not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not authorized by law. In fact, these guidelines support a consistent standard of care and scope of practice notwithstanding the delivery tool or business method used to enable practitioner-to-patient communications. For the purpose of prescribing controlled substances, a practitioner using telemedicine services in the provision of medical services to a patient (whether existing or new) must take appropriate steps to establish the practitioner-patient relationship as defined in Virginia Code § 54.1-3303. A practitioner should conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation. As such, some situations and patient presentations are appropriate for the utilization of telemedicine services as a component of, or in lieu of, in-person provision of medical care, while others are not. The practitioner is responsible for making this determination, and in doing so must adhere to applicable laws and standards of care.

The Board has developed these guidelines to educate licensees as to the appropriate use of telemedicine services in the practice of medicine. The Board is committed to ensuring patient access to the convenience and benefits afforded by telemedicine services, while promoting the responsible provision of health care services.

It is the expectation of the Board that practitioners who provide medical care, electronically or otherwise, maintain the highest degree of professionalism and should:

- Place the welfare of patients first;
- Maintain acceptable and appropriate standards of practice;
- Adhere to recognized ethical codes governing the applicable profession;
- Adhere to applicable laws and regulations;
- In the case of physicians, properly supervise non-physician clinicians when required to do so by statute; and
- Protect patient confidentiality.

Section Two: Establishing the Practitioner-Patient Relationship.

The practitioner-patient relationship is fundamental to the provision of acceptable medical care. It is the expectation of the Board that practitioners recognize the obligations, responsibilities, and patient rights associated with establishing and maintaining a practitioner-patient relationship. Where an existing practitioner-patient relationship is not present,[1] a practitioner must take appropriate steps to establish a practitioner-patient relationship consistent with the guidelines identified in this document, with Virginia law, and with any other applicable law.[2] While each circumstance is unique, such practitioner-patient relationships may be established using telemedicine services provided the standard of care is met.

A practitioner is discouraged from rendering medical advice and/or care using telemedicine services without (1) fully verifying and authenticating the location and, to the extent possible, confirming the identity of the requesting patient; (2) disclosing and validating the practitioner's identity and applicable credential(s); and (3) obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of telemedicine services. An appropriate practitioner-patient relationship has not been established when the identity of the practitioner may be unknown to the patient.

Section Three: Guidelines for the Appropriate Use of Telemedicine Services.

The Board has adopted the following guidelines for practitioners utilizing telemedicine services in the delivery of patient care, regardless of an existing practitioner-patient relationship prior to an encounter.

Licensure:

The practice of medicine occurs where the patient is located at the time telemedicine services are used, and insurers may issue reimbursements based on where the practitioner is located. Therefore, a practitioner must be licensed by, or under the jurisdiction of, the regulatory board of the state where the patient is located and the state where the practitioner is located. Practitioners who treat

[1] This guidance document is not intended to address existing patient-practitioner relationships established through in-person visits.

[2] The practitioner must adhere not only to Virginia law defining a practitioner-patient relationship, but the law in any state where a patient is receiving services that defines the practitioner-patient relationship.

or prescribe through online service sites must possess appropriate licensure in all jurisdictions where patients receive care. To ensure appropriate insurance coverage, practitioners must make certain that they are compliant with federal and state laws and policies regarding reimbursements.

Evaluation and Treatment of the Patient:

A documented medical evaluation and collection of relevant clinical history commensurate with the presentation of the patient to establish diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended/provided must be obtained prior to providing treatment, which treatment includes the issuance of prescriptions, electronically or otherwise. Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional, in-person encounters. Treatment, including issuing a prescription based solely on an online questionnaire, does not constitute an acceptable standard of care. (See section on prescribing)

Informed Consent:

Evidence documenting appropriate patient informed consent for the use of telemedicine services must be obtained and maintained. Appropriate informed consent should, as a baseline, include the following:

- Identification of the patient, the practitioner, and the practitioner's credentials;
- Types of activities permitted using telemedicine services (e.g. prescription refills, appointment scheduling, patient education, etc.);
- Agreement by the patient that it is the role of the practitioner to determine whether or not the condition being diagnosed and/or treated is appropriate for a telemedicine encounter;
- Details on security measures taken with the use of telemedicine services, such as encrypting date of service, password protected screen savers, encrypting data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy notwithstanding such measures;
- Hold harmless clause for information lost due to technical failures; and
- Requirement for express patient consent to forward patient-identifiable information to a third party.

Medical Records:

The medical record should include, if applicable, copies of all patient-related electronic communications, including patient-practitioner communication, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions obtained or produced in connection with the utilization of telemedicine services. Informed consents obtained in connection with an encounter involving telemedicine services should also be filed in the medical record. The patient record established during the use of telemedicine services must be accessible to both the practitioner and the patient, and consistent with all established laws and regulations governing patient healthcare records.

Privacy and Security of Patient Records and Exchange of Information:

Written policies and procedures should be maintained for documentation, maintenance, and transmission of the records of encounters using telemedicine services. Such policies and procedures should address (1) privacy, (2) health-care personnel (in addition to the practitioner addressee) who will process messages, (3) hours of operation, (4) types of transactions that will be permitted electronically, (5) required patient information to be included in the communication, such as patient name, identification number and type of transaction, (6) archival and retrieval, and (7) quality oversight mechanisms. Policies and procedures should be periodically evaluated for currency and be maintained in an accessible and readily available manner for review.

Section Four: Prescribing.

Prescribing controlled substances requires the establishment of a bona fide practitioner-patient relationship in accordance with § 54.1-3303 (A) of the Code of Virginia. Prescribing controlled substances, in-person or via telemedicine services, is at the professional discretion of the prescribing practitioner. The indication, appropriateness, and safety considerations for each prescription provided via telemedicine services must be evaluated by the practitioner in accordance with applicable law and current standards of practice and consequently carries the same professional accountability as prescriptions delivered during an in-person encounter. Where such measures are upheld, and the appropriate clinical consideration is carried out and documented, the practitioner may exercise their judgment and prescribe controlled substances as part of telemedicine encounters in accordance with applicable state and federal law.

Prescriptions must comply with the requirements set out in Virginia Code §§ 54.1-3408.01 and 54.1-3303(A). Prescribing controlled substances in Schedule II through V via telemedicine also requires compliance with federal rules for the practice of telemedicine. Practitioners issuing prescriptions as part of telemedicine services should include direct contact for the prescriber or the prescriber's agent on the prescription. This direct contact information ensures ease of access by pharmacists to clarify prescription orders, and further facilitates the prescriber-patient-pharmacist relationship.

For the purpose of prescribing Schedule VI controlled substances, "telemedicine services" is defined as it is in § 38.2-3418.16 of the Code of Virginia. Under that definition, *"telemedicine services," as it pertains to the delivery of health care services, means the use of electronic technology or media, including interactive audio or video, for the purpose of diagnosing or treating a patient or consulting with other health care providers regarding a patient's diagnosis or treatment. "Telemedicine services" does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire.*

Section Five: Guidance Document Limitations.

Nothing in this document shall be construed to limit the authority of the Board to investigate, discipline, or regulate its licensees pursuant to applicable Virginia statutes and regulations.

Additionally, nothing in this document shall be construed to limit the Board's ability to review the delivery or use of telemedicine services by its licensees for adherence to the standard of care and compliance with the requirements set forth in the laws and regulations of the Commonwealth of Virginia. Furthermore, this document does not limit the Board's ability to determine that certain situations fail to meet the standard of care or standards set forth in laws and regulations despite technical adherence to the guidance produced herein.

Statutory references:

§ 54.1-3303. Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.

A. A prescription for a controlled substance may be issued only by a practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled substances, or by a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32. The prescription shall be issued for a medicinal or therapeutic purpose and may be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship.

For purposes of this section, a bona fide practitioner-patient-pharmacist relationship is one in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to his patient for a medicinal or therapeutic purpose within the course of his professional practice. In addition, a bona fide practitioner-patient relationship means that the practitioner shall (i) ensure that a medical or drug history is obtained; (ii) provide information to the patient about the benefits and risks of the drug being prescribed; (iii) perform or have performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; except for medical emergencies, the examination of the patient shall have been performed by the practitioner himself, within the group in which he practices, or by a consulting practitioner prior to issuing a prescription; and (iv) initiate additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. A practitioner who performs or has performed an appropriate examination of the patient required pursuant to clause (iii), either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically, for the purpose of establishing a bona fide practitioner-patient relationship, may prescribe Schedule II through VI controlled substances to the patient, provided that the prescribing of such Schedule II through V controlled substance is in compliance with federal requirements for the practice of telemedicine.

For the purpose of prescribing a Schedule VI controlled substance to a patient via telemedicine services as defined in § 38.2-3418.16, a prescriber may establish a bona fide practitioner-patient relationship by an examination through face-to-face interactive, two-way, real-time communications services or store-and-forward technologies when all of the following conditions are met: (a) the patient has provided a medical history that is available for review by the prescriber; (b) the prescriber obtains an updated medical history at the time of prescribing; (c) the prescriber makes a diagnosis at the time of prescribing; (d) the prescriber conforms to the standard of care expected of in-person care as appropriate to the patient's age and presenting condition, including when the standard of care requires the use of diagnostic testing and performance of a physical examination, which may be carried out through the use of

peripheral devices appropriate to the patient's condition; (e) the prescriber is actively licensed in the Commonwealth and authorized to prescribe; (f) if the patient is a member or enrollee of a health plan or carrier, the prescriber has been credentialed by the health plan or carrier as a participating provider and the diagnosing and prescribing meets the qualifications for reimbursement by the health plan or carrier pursuant to § 38.2-3418.16; and (g) upon request, the prescriber provides patient records in a timely manner in accordance with the provisions of § 32.1-127.1:03 and all other state and federal laws and regulations. Nothing in this paragraph shall permit a prescriber to establish a bona fide practitioner-patient relationship for the purpose of prescribing a Schedule VI controlled substance when the standard of care dictates that an in-person physical examination is necessary for diagnosis. Nothing in this paragraph shall apply to: (1) a prescriber providing on-call coverage per an agreement with another prescriber or his prescriber's professional entity or employer; (2) a prescriber consulting with another prescriber regarding a patient's care; or (3) orders of prescribers for hospital out-patients or in-patients.

Any practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than medicinally or for therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of controlled substances.

§ 54.1-3408.01. Requirements for prescriptions.

A. The written prescription referred to in § 54.1-3408 shall be written with ink or individually typed or printed. The prescription shall contain the name, address, and telephone number of the prescriber. A prescription for a controlled substance other than one controlled in Schedule VI shall also contain the federal controlled substances registration number assigned to the prescriber. The prescriber's information shall be either preprinted upon the prescription blank, electronically printed, typewritten, rubber stamped, or printed by hand.

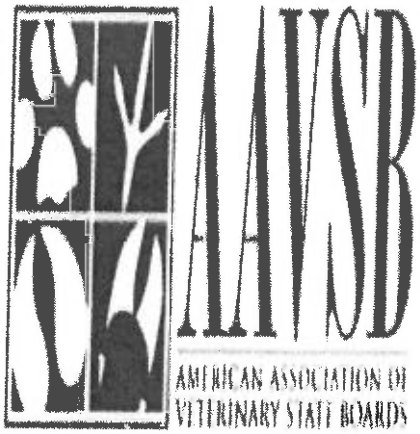
The written prescription shall contain the first and last name of the patient for whom the drug is prescribed. The address of the patient shall either be placed upon the written prescription by the prescriber or his agent, or by the dispenser of the prescription. If not otherwise prohibited by law, the dispenser may record the address of the patient in an electronic prescription dispensing record for that patient in lieu of recording it on the prescription. Each written prescription shall be dated as of, and signed by the prescriber on, the day when issued. The prescription may be prepared by an agent for the prescriber's signature.

This section shall not prohibit a prescriber from using preprinted prescriptions for drugs classified in Schedule VI if all requirements concerning dates, signatures, and other information specified above are otherwise fulfilled.

No written prescription order form shall include more than one prescription. However, this provision shall not apply (i) to prescriptions written as chart orders for patients in hospitals and long-term-care facilities, patients receiving home infusion services or hospice patients, or (ii) to a prescription ordered through a pharmacy operated by or for the Department of Corrections or the Department of Juvenile Justice, the central pharmacy of the Department of Health, or the central outpatient pharmacy operated by the Department of Behavioral Health and Developmental Services; or (iii) to prescriptions written for patients residing in adult and juvenile detention centers, local or regional jails, or work release centers operated by the Department of Corrections.

B. Prescribers' orders, whether written as chart orders or prescriptions, for Schedules II, III, IV, and V controlled drugs to be administered to (i) patients or residents of long-term care facilities served by a Virginia pharmacy from a remote location or (ii) patients receiving parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion therapy and served by a home infusion pharmacy from a remote location, may be transmitted to that remote pharmacy by an electronic communications device over telephone lines which send the exact image to the receiver in hard copy form, and such facsimile copy shall be treated as a valid original prescription order. If the order is for a radiopharmaceutical, a physician authorized by state or federal law to possess and administer medical radioactive materials may authorize a nuclear medicine technologist to transmit a prescriber's verbal or written orders for radiopharmaceuticals.

C. The oral prescription referred to in § 54.1-3408 shall be transmitted to the pharmacy of the patient's choice by the prescriber or his authorized agent. For the purposes of this section, an authorized agent of the prescriber shall be an employee of the prescriber who is under his immediate and personal supervision, or if not an employee, an individual who holds a valid license allowing the administration or dispensing of drugs and who is specifically directed by the prescriber.



strengthening the veterinary regulatory community

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Save the Dates for 2018!

Save the dates of September 13-15, 2018 now for the 2018 AAVSB Annual Meeting & Conference to be held at the Mayflower Hotel in Washington, DC.

Criteria for this report:
License Status = Current Active, Current Inactive, Probation - Current Active, Adverse Findings - Current Active, Current Active-RN Privilege and Expiration Date >= Today or is null.

License Count Report for Veterinary Medicine

Board	Occupation	State	License Status	License Count
Veterinary Medicine				
	Equine Dental Technician			
	Equine Dental Technician	Virginia	Current Active	16
	Equine Dental Technician	Out of state	Current Active	9
	Total for Equine Dental Technician			25
	Veterinarian			
	Veterinarian	Virginia	Current Active	3,060
	Veterinarian	Virginia	Current Inactive	48
	Veterinarian	Out of state	Current Active	829
	Veterinarian	Out of state	Current Inactive	218
	Total for Veterinarian			4,155
	Veterinary Establishment - Full Service			
	Veterinary Establishment - Full Service	Virginia	Current Active	757
	Veterinary Establishment - Full Service	Out of state	Current Active	12
	Total for Veterinary Establishment - Full Service			769
	Veterinary Establishment - Restricted			
	Veterinary Establishment - Restricted	Virginia	Current Active	340
	Veterinary Establishment - Restricted	Out of state	Current Active	16
	Total for Veterinary Establishment - Restricted			356
	Veterinary Technician			
	Veterinary Technician	Virginia	Current Active	1,808
	Veterinary Technician	Virginia	Current Inactive	39
	Veterinary Technician	Virginia	Probation - Curre	1
	Veterinary Technician	Out of state	Current Active	235
	Veterinary Technician	Out of state	Current Inactive	28
	Total for Veterinary Technician			2,111
Total for Veterinary Medicine				7,416

CURRENT ACTIVE & INACTIVE LICENSES						
License Type	**FY2012**	**FY2013**	**FY2014**	**FY2015**	**FY2017**	**3/1/2018**
Veterinarian	3530	3960	4038	4,145	4,310	4,155
Veterinary Technician	1579	1689	1788	1,917	2,135	2,111
Equine Dental Technician	24	23	23	24	25	25
Full Service Establishment	735	744	750	768	773	769
Restricted Service Establishment	270	287	298	315	341	356
Total	6138	6703	6897	7,169	7,584	7,416

Virginia Department of Health Professions
Cash Balance
As of December 31, 2017

	106- Veterinary Medicine
Board Cash Balance as June 30, 2017	$ 724,593
YTD FY18 Revenue	1,034,515
Less: YTD FY18 Direct and Allocated Expenditures	506,594
Board Cash Balance as December 31, 2017	1,252,514

Virginia Department of Health Professions
Cash Balance
As of June 30, 2017

	106- Veterinary Medicine
Board Cash Balance as of June 30, 2016	$ 572,256
YTD FY17 Revenue	1,131,332
Less: YTD FY17 Direct and In-Direct Expenditures	978,994
Board Cash Balance as June 30, 2017	724,593

Sent 12/28/17

Virginia Department of Health Professions

Board of Veterinary Medicine

Board of Veterinary Medicine

Regulatory Action Public Comment Period

The Virginia Board of Veterinary Medicine is seeking public comment on the following regulatory action affecting the *Regulations Governing the Practice of Veterinary Medicine*. The deadline for public comment is February 9, 2018.

Prescribing Opioids

To review information on the replacement regulations for the emergency regulations relating to the prescribing of opioids including the proposed text, please CLICK HERE. To review the proposed text only, please CLICK HERE.

In addition, a public hearing to receive comments will be held on February 8, 2017, at 8:45 a.m. For additional information on the public hearing, please CLICK HERE.

Questions may be directed to the vetbd@dhp.virginia.gov
Website: Board of Veterinary Medicine

From: Virginia Board of Veterinary Medicine
Sent: Tuesday, February 20, 2018 7:01 PM
Subject: New Prohibition on Keeping Red Foxes as Pets

Virginia Department of Health Professions

Board of Veterinary Medicine

Board of Veterinary Medicine

New Prohibition on Keeping Red Foxes as Pets

The Virginia Department of Game and Inland Fisheries (VDGIF) has asked the Virginia Board of Veterinary Medicine to send out the following information:

A recent VDGIF regulatory change prohibits the acquisition of new red fox pets after July 1, 2017. This prohibition was deemed necessary because of the lack of a commercially available rabies vaccine that is licensed for use in foxes and the consequent risk that pet foxes pose to the public. For a person to legally possess a pet red fox obtained prior to July 1, 2017, a declaration of such possession was to be sent in writing to VDGIF by January 1, 2018. The deadline has now been extended to June 30, 2018. The VDGIF advises all veterinarians to ascertain legal status prior to examining or treating any pet fox. To obtain a red fox declaration form CLICK HERE.

If you have any question regarding this issue, please contact Randy Francis, Wildlife Permits Coordinator, Virginia Department of Game and Inland Fisheries, at (804) 593-2036 or randy.francis@dgif.virginia.gov

From: Virginia Board of Veterinary Medicine
Sent: Thursday, February 22, 2018 7:01 PM
Subject: Re-categorization of Veterinary Establishments

Virginia Department of Health Professions

Board of Veterinary Medicine

Board of Veterinary Medicine

Re-categorization of Veterinary Establishments

The Virginia Board of Veterinary Medicine made significant changes to the *Regulations Governing the Practice of Veterinary Medicine*, *Part V. Veterinary Establishments* that became effective on October 25, 2017. As provided in a previous email, each veterinary establishment will need to be re-categorized. The re-categorization will be accomplished by each establishment completing a short online survey by **March 30, 2018**.

Please have the following information accessible before beginning the survey:

- **Veterinary establishment's registration number, address and contact information**
- **Veterinarian-in-Charge's license number and contact information.**

Questions may be directed to vetbd@dhp.virginia.gov . Please put "Survey" in the subject line.

Website: Board of Veterinary Medicine

To complete survey CLICK HERE

Only one survey per veterinary establishment registration number can be submitted.