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## Final Regulation Agency Background Document

<b>Agency name</b>	Board of Veterinary Medicine, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation(s)</b>	18VAC150-20-10 et seq.
<b>Regulation title(s)</b>	Regulations Governing the Practice of Veterinary Medicine
<b>Action title</b>	Periodic review changes
<b>Date this document prepared</b>	5/2/17

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

### Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

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

### Acronyms and Definitions

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

DVM = Doctor of Veterinary Medicine  
LVT = Licensed Veterinary Technician  
VIC = Veterinarian-in-charge

### Statement of final agency action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On April 20, 2017, the Board of Veterinary Medicine adopted amendments to 18VAC150-20-10 et seq., Regulations Governing the Practice of Veterinary Medicine.

### Legal basis

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

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

*§ 54.1-2400. General powers and duties of health regulatory boards.--The general powers and duties of health regulatory boards shall be:*

*6. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 and Chapter 25 of this title...*

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

**§ 54.1-3804. Specific powers of Board.**

*In addition to the powers granted in § 54.1-2400, the Board shall have the following specific powers and duties:*

- 1. To establish essential requirements and standards for approval of veterinary programs.*
- 2. To establish and monitor programs for the practical training of qualified students of veterinary medicine or veterinary technology in college or university programs of veterinary medicine or veterinary technology.*
- 3. To regulate, inspect and register all establishments and premises where veterinary medicine is practiced.*

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

### Purpose

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

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

### Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both.*

The Board has amended the following sections:

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

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

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

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

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

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

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

**18VAC150-140:** Regulations stating causes for unprofessional conduct are amended for clarification of certain provisions and to add a cause for action in the failure to submit evidence of correction resulting from a violation noted in an inspection within 14 days unless an extension has been granted.

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

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

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

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

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

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

and 9) provisions for records of drug distribution if a limited or ambulatory practice uses the facilities of another veterinary establishment.

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

**18VAC150-20-200:** The current terminology for “full-service” establishments is amended to “stationary” establishments to distinguish them from those that are mobile. Requirements are re-organized for ease of understanding and compliance and the specific listing of laboratory services is eliminated. A subsection is added with requirements to ensure that patients receive appropriate care at establishments that are open to the public 24 hours a day; a disclosure is required if an establishment is not open 24 hours a day and the establishment does not have continuous staffing. All stationary establishments must provide continuity of care when transferring a patient to another facility.

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

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

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

## Issues

*Please identify the issues associated with the proposed regulatory action, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.*

- 1) The primary advantage to the public is additional requirements for informed consent, more security for drug stocks, and more specificity about patient records. There are no disadvantages to the public;
- 2) There are no advantages and disadvantages to the agency or the Commonwealth; and
- 3) There are no other pertinent matters of interest to the regulated community, government officials, and the public. The Director of the Department of Health Professions has reviewed the proposal and performed a competitive impact analysis. The Board is authorized under § 54.1-2400 to “*promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) which are reasonable and necessary to administer effectively the regulatory system.*” The Board is authorized under Virginia Code §§ 54.1-2400, 54.1-3804, and 54.1-3805 to “regulate, inspect and register all establishments and premises where veterinary medicine is practiced” and to establish qualifications, renewal schedules, and fees for licensure.

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

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

**Requirements more restrictive than federal**

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

There are no applicable federal requirements.

**Localities particularly affected**

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

There are no localities particularly affected.

**Family impact**

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

There is no impact on the family.

**Changes made since the proposed stage**

*Please list all changes that made to the text of the proposed regulation and the rationale for the changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. \*Please put an asterisk next to any substantive changes.*

In addition to edits in the body of the text recommended by the Assistant Attorney General, the following changes were made:

<b>Section number</b>	<b>Requirement at proposed stage</b>	<b>What has changed</b>	<b>Rationale for change</b>
10	Definition for NBVME	NBVME definition is deleted; ICVA is added	The name of the veterinary examining body has changed.
110	Requirement for a degree from an accredited veterinary college or school	Added to subsection A the alternatives for foreign graduates by meeting requirements of ECFVG or PAVE	Moved from new #3 to #1 for more clarity
115	Requirements for licensure by examination for veterinary technicians	Added submission of an application fee as specified in section 100	Added for clarity & consistency with section 110 on veterinarians
120	Requirements for licensure by endorsement for veterinarians	Added submission of an application fee as specified in section 100	Added for clarity & consistency with section 110 on licensure by examination
121	Requirements for licensure by endorsement for veterinary technicians includes 12 hours of CE during preceding 4 years	1) Changed 12 to 16 hours 2) Added submission of an application fee as specified in section 100	1) Since adoption of proposed regulations, the CE hours for vet techs have been increased from 6 to 8, so two years of CE (the intended requirement) is 16 rather than 12 hours. 2) Added for clarity and consistency with other sections
130	Requirements for practical training in a preceptorship	1) Changed written "approval" to written "informed consent" 2) The word "veterinary" was added before "preceptee"	1) Questions were raised about whether approval was something different from the informed consent document that an owner would be asked to sign; the term was amended for clarity. 2) Subsection C was amended to clarify that the requirement for disclosure is applicable if there is a veterinary

			preceptee in the practice, rather than veterinary technology student.
172	Sets out the duties that may be delegated to an unlicensed assistant	<ol style="list-style-type: none"> <li>1) Intubation was added to the specific tasks that cannot be delegated</li> <li>2) The monitoring of a patient that is sedated or anesthetized was amended to delete the provision that the patient is no longer intubated</li> <li>3) The phrase “include by are not limited to the following” was added to list of tasks that are permissible to delegate</li> <li>4) The task of “clipping and scrubbing in preparation for surgery” was amended to “prepping a patient or equipment for surgery”</li> </ol>	<ol style="list-style-type: none"> <li>1) Since the listing of permissible tasks was amended, it was necessary to specify intubation as a task that <u>cannot</u> be delegated.</li> <li>2) The provision on monitoring a patient was amended for consistency with the Board’s original intent and in response to numerous comments.</li> <li>3) By deleting the phrase “include but are not limited to”, the Board had limited the tasks permissible for delegation to a specific list. Commenters were concerned that it was too restrictive on veterinary practices.</li> <li>4) The specific task of preparation for surgery was limited to clipping and scrubbing. Board members agreed that there were other tasks relating to the preparation of the patient and equipment used in surgery that could be delegated.</li> </ol>
173	Specifies requirements for informed consent for surgery	Subsection C is amended to add provisions also set out in section 130 relating to preceptee practice	Subsection C is amended for clarity and consistency with provisions of section 130.
181	Sets out the responsibilities of a veterinarian-in-charge	Revises the requirements of a VIC in the event of the closure or sale of a veterinary practice to include situations in which an establishment closes and there is no transfer of records involved.	Changes made to concerns expressed in public comment about situations in which establishments close without any notice or access to records by affected owners.
190	Subsection D provides that only a veterinarian or veterinary technician can have access to Schedule II through V drugs	<ol style="list-style-type: none"> <li>1) Access by a pharmacist or pharmacy technician is added if applicable</li> <li>2) An exception to the access limitation is added in #6 of subsection D</li> </ol>	<ol style="list-style-type: none"> <li>1) Addition in response to comment</li> <li>2) Addition of exception in response to comment about situations in which an animal is being</li> </ol>



			boarded at the establishment & must be given his medication by a kennel employee who is not a licensee. The restrictions set out in #6 are intended to ensure that the medication has been dispensed to a specific animal & is maintained securely and that the unlicensed person does not have access to the general drug stock.
201	Currently provides that surgery may be performed only in a surgical suite	Amended subsection B to allow surgery that only requires local anesthetics to be performed in a location other than a surgical suite	Amendment in response to public comment; less restrictive but limited allowance to protect patients

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate. Please distinguish between comments received on Town Hall versus those made in a public hearing or submitted directly to the agency or board.*

A public comment period on proposed regulations resulting from a periodic review was open between December 26, 2106 and February 24, 2017. There was a public hearing conducted before the Board on February 9, 2017.

Commenter	Comment	Board response
36 persons	Opposed the restriction on unlicensed assistants monitoring a sedated or anesthetized patient if it is intubated.	The Board made a change in section 172 in response; it deleted the restriction on monitoring patient that is intubated.
	<b>Additional comments</b>	
Maureen Perry, RPh	Limitation on access to controlled drugs should include pharmacists and pharmacy technicians	Change in section 190 added pharmacists and pharmacy technicians.
Melaine Gevedon	Clarification about whether regulation does not allow placement of microchips at a public vaccine clinic even when there is a veterinarian present.	Change would require amendment to the Code of Virginia.
Melanie Crovo, DVM	Need regulations requiring notification and provision for records when a veterinary establishment closes	Changes made to section 181 to address closures without the transfer of records.
Jerry Hinn, DVM	Assistant should be allowed to remove	The Board did not agree with the

	endotracheal tube; closure of a simple extraction site once cleansed is different from regulatory wording addressing creation of a gingival flap.	recommended amendment.
Stephen Smith, DVM	Fish should be in the veterinary practice act in Va.	Companion animals are defined in the Code of Virginia.
Christina Blevins	Question of whether a head loop with light constitutes emergency lighting in the surgical suite	The Board did not amend the requirement for <u>automatic</u> emergency lighting; a head loop would not be automatic.
Yonas Mehari, DVM	Definition of a preceptee should include a graduate who is a ECFVG candidate in process under the AVMA.	The Board did not agree with the comment.
Margaret Rucker, DVM for Virginia Veterinary Medical Association	Notes concerns of one of VVMA members: 1) Revise restriction on unlicensed assistants placing IV catheters 2) Do not remove “including but limited to” so the veterinarian can determine which tasks can be delegated to a trained assistant. 3) Replace “clipping and scrubbing in preparation for surgery” with “assisting in surgery” 4) Delete the restriction on access to Schedule II – V drugs so unlicensed persons can access and administer on weekends when no licensed persons are on the premises.	1) The restriction is current language; it was not new in the proposed regulation and was not amended in final adoption. 2) The “including but not limited to” was re-inserted in section 172. 3) The Board revised the preparation for surgery but did not adopt the phrase “assisting in surgery” as being far too broad an allowance for an unlicensed assistant. 4) The Board did amend section 190 to provide access to medications for boarded animals when no licensee is on premises.
Joe May, DVM	Concerns noted in comment above. 1) Restrictions on surgery and performed surgery only in a surgical suite need to be deleted or modified 2) Vets in an ambulatory/house call practice should be able to see patients at any location	1) Section 200 was amended to specify that “surgery” requiring only local anesthetics may be performed in a location other than a surgical suite; so veterinarians who have an ambulatory practice can treat animals requiring simple procedures that do not necessitate the use of a full surgical suite and moderate sedation or general anesthesia.  2) The Board did not amend the provision on house call practices; veterinarians may attend an animal at any location once a veterinarian-patient relationship has been established; the intent of the regulation is to prevent a vet from setting up practice in the parking lot in front of a pet

		supply store, etc.
Lee Henkel	Concern by the Board was about postoperative monitoring, not what happens during surgery	The Board did not specify “postoperative” but did amend the provision on monitoring a sedated patient.
Jane Kaye, DVM	Assistants should be able to monitor anesthesia and place IV catheters	The Board concurred with the comment about monitoring but did not agree that unlicensed assistants should be able to insert IV catheters; that is a task currently restricted to a licensed person – it is not a new provision.
Hillary Rader, DVM	Should put back the “include but are not limited to” so assistants can be trained to perform additional tasks	The Board amended section 172 accordingly, but added intubation as a restricted task.
Hiedi Orr, DVM	Assistants should be able to place IV catheters ( <i>note: it is a current restriction, not a proposed change</i> ) Should put back the “include but are not limited to” so assistants can be trained to perform additional tasks	Same responses as above
William Swecker, VMCVM	1) Access to drugs should include other medical professionals such as pharmacists and pharmacy technicians 2) Need clarification of requirements in section 130 and 173 on informed consent/written approval for student or preceptee to perform surgery	1) Same response as above 2) Sections 130 and 173 were amended for clarity about the requirements for informed consent
Kris Keane	Vets should have clients sign a consent for non-licensed assistants to be involved in anesthesia	The informed consent requirement was not amended to require consent for monitoring by an unlicensed assistant; there would be no other type of involvement by an assistant.
Kristin Wallace, LVT	Unlicensed assistants should not be able to place a endotracheal tube – patients should have the priority rather than time of the vet	The Board concurred.
Ellen Carozza, LVT	Agreed that public should know when unlicensed assistants are monitoring anesthesia	The informed consent requirement was not amended to require consent for monitoring by an unlicensed assistant; there would be no other involvement by an assistant.
Dani Tyree, LVT	Patients deserve trained veterinary technicians	The Board would concur but veterinary technicians are not readily available to all practices in all areas of the state.
Brittany Kestner, LVT	Unlicensed assistants should be limited in what they can do; LVTs are licensed but are limited in certain tasks.	The Board concurred.
Anne Norback, LVT	Supports the regulatory change for the safety of patients	The Board concurred.
Jason Bollenbeck	Should put back the “include but are not limited to” so assistants can be trained to	The Board concurred and amended the section.

	perform additional tasks	
Jessica Wootton, DVM	Was an assistant before a DVM; did not have proper training to perform those tasks or troubleshoot problems that arose.	The Board understands the limited role of an assistant and has restrictions on practice; the veterinarian remains responsible for appropriate training for all tasks assigned to an assistant and for the welfare of the patient.
Karleigh Walkosz, LVT	Does not support allowing an unlicensed assistant to monitor sedation; most problems occur within 3 hours following an anesthetic event. Blurring the lines between licensed and unlicensed practice.	The Board does allow monitoring by an unlicensed assistant provided there is a licensee on premises to handle any emergency that may arise.
Kendall Blackwell, LVT	Concurs with comment above	Same response as above
Micki Armour, DVM	Proposes that only a licensed tech or DVM should intubate and monitor anesthesia. If a LVT is unavailable, a DVM should be present during the entire anesthesia.	The Board did add intubation as a task that could not be delegated to an unlicensed person, but did allow monitoring provided a licensee is on premises.
Nicole Kennedy, LVT	Assistants do not have the knowledge to monitor a patient waking up from anesthesia; too much can go wrong.	The Board does allow monitoring by an unlicensed assistant <u>provided</u> there is a licensee on premises to handle any emergency that may arise.
Genito Animal Hospital	Differentiation of assistant vs trained veterinary technical is important as the standard of care as expectations and pet care evolve in our society as a whole	The definition of a veterinary technician specifies that such person is “licensed”; references to an assistant specify that such person is unlicensed. There may be a lack of distinction among consumers of veterinary care.
Theresa Gray, LVT	Assistants should not be monitoring patients under anesthesia; Lists additional duties in 172 that are not included in NAVTA approved Assistant Certification course – does not include drawing blood; dental polishing and scaling of teeth. Should follow the NAVTA standard for how assistants should be trained.	The Board understands the limited role of an assistant and has restrictions on practice; the veterinarian remains responsible for appropriate training for all tasks assigned to an assistant and for the welfare of the patient.
Taryn Singleton, LVT	Recommends that a licensed person should be on the premises whenever an animal is sedated.	The adopted regulation has such a requirement.

**All changes made in this regulatory action**

*Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections. Explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation*

**In 1998, 18VAC150-20-10 et seq. was amended to specify that veterinary facilities must register with the Board and be issued a permit. Therefore, the word “permit” has been used consistently**

in regulation since that time. Counsel to the Board has recently advised that it does not have statutory authority to issue a “permit.” Therefore, all references to “permit” have been changed in this action to “registration.”

Current section number	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
10	Sets out definitions for words and terms used in the regulations	<p>Terms that are added include: “AAVSB”, “DEA”, “Preceptee or extern”, “Private animal shelter”, “Public animal shelter”, and “Veterinary technician”. All are either newly used in the amended regulation or needed to be defined for more clarity in their usage.</p> <p>Terms that are deleted include: “Animal shelter”, “Full service establishment”, “Pound”, “Restricted service establishment”. All have been replaced with updated terminology and are no longer used in this chapter.</p> <p>Terms that are amended are: “Immediate <del>and direct</del> supervision” (Direct is deleted because it implies that the veterinarian is present at all times when delegation occurs, which is inconsistent with the meaning.) and “Veterinary establishment” (No longer defines as a fixed or mobile practice; terms proposed are “stationary or ambulatory”.)</p>
30	Sets out requirements for posting of licenses and registrations	Amended to delete “permit” and insert the word “registration”
70	Sets out the requirements for licensure renewal	<p>Subsection B is amended to: 1) allow a licensee 14 days (rather than 10) to provide all supporting documentation of completion of CE and allows an extension of that time to be granted by the Board; 2) specify that falsification of completion of CE on the renewal form may subject the licensee to disciplinary action.</p> <p><i>The change for provision of documentation is less onerous for licensee; the specification about falsification is explanatory as the Board already has disciplinary authority for falsification on application forms.</i></p>
75	Sets out requirements for reinstatement of lapsed license	The amendment in subsection B is editorial to include an applicable section of the chapter in addition to the Code section.
100	Sets out the required fees	An amendment changes “permit” to “registration” for the veterinary establishment fee
110	Sets out requirements for licensure by examination for veterinarians	Amendments to section 110 are intended to reorganize the subsection more logically and clearly. For graduates of foreign schools, the Program for the Assessment of Veterinary Education Experience of the AAVSB is added as an option for verification of education.
115	Sets out requirements for licensure by examination for veterinary technicians	Amendments to section 115 will: 1) specify the licensure examination currently required; 2) add the provision that the applicant has not committed an act that would constitute a violation of the Code; and 3) clarify that a new application and fee is required if the application is not

120	Sets out requirements for licensure by endorsement as a veterinarian	<p>completed within one year.</p> <p>Amendments to subsection A will: 1) clarify what is meant by holding a license “in good standing”; 2) clarify that the clinical practice for two out of the past four years must be “immediately preceding application”; 3) delete the regulation to have met all requirements for licensure by examination; 4) add evidence of 30 hours of CE during the preceding 4 years; 5) require the applicant to sign a statement that he has read and will abide by laws and regulations; and 6) require that the applicant not have committed acts that would constitute a violation.</p> <p><i>Elimination of regulation to have met all requirements for initial licensure will make licensure by endorsement less burdensome and more efficient for applicants from other states who will be relieved of having to obtain a transcript and exam scores to provide to the Board. While the Board will have no actual proof that the veterinarian graduated from an accredited school and passed the national exam, the consistency of licensure requirements among all states makes it virtually certain that the applicant has met those qualifications. Additionally, the Board is assured of minimal competency by the requirement that the license is unrestricted, that the applicant has been in active practice, and that he has completed hours of continuing education. The requirement for familiarity with laws and regulations is consistent with requirements for other applicants for licensure for this and other boards.</i></p>
121	Sets out requirements for licensure by endorsement for veterinary technicians	<p>The amendments to section 121 are similar to those for veterinarians with the intent of more clarity.</p>
130	Sets out requirements for practical training in a preceptorship or externship	<p>An amendment to subsection B will require that whenever a preceptee or extern is performing surgery, either assisted or unassisted, the supervising veterinarian must be in the operatory.</p> <p><i>The amendment is consistent with best practices for supervising a preceptee and is incorporated into regulation for protection of animals and assurance for owners.</i></p> <p>A new subsection C is proposed to require a supervising veterinarian to inform owners that he or she has a preceptee in the practice. Such information can be provided by signage or by inclusion in an informed consent form.</p> <p><i>The purpose of the amendment is to respond to owners who want to know who is working on their animals. Veterinarians would then have the opportunity to explain the role of the preceptee, and the owner would have the option of choosing who is involved in the care of their</i></p>

		<p><i>animal.</i></p> <p>Subsection D is added to explicitly state that the veterinarian or veterinary technician who supervises a preceptee or extern remains responsible for the care and treatment of the patient.</p> <p><i>The provision is not a new standard; supervisors have always been held accountable for the care and treatment of the animal, but the specificity of the regulation is for emphasis and clarity.</i></p>
135	Sets out requirements for voluntary practice by out-of-state practitioners	<p>An amendment will eliminate the requirement for notarization of the statement from the nonprofit sponsoring organization.</p> <p><i>The requirement is an unnecessary expense for the nonprofit.</i></p>
140	Establishes grounds for a finding of unprofessional conduct as referenced in § 54.1-3807.	<p>An amendment to #12 adds a qualifying provision to refusal to release a copy of a valid prescription upon request. The veterinarian is relieved of that requirement if there are medical reasons documented in the patient record and he would not dispense the medication from his own practice.</p> <p><i>There are a few times when the veterinarian deems that the owner should not have a copy of a prescription, such as he may believe the owner is using the drug for a different purpose. He can't refuse to release the prescription just to prevent the owner from purchasing the drug at a pharmacy rather than through his practice.</i></p> <p>#15 is amended to clarify that a <i>copy</i> of the patient record must be released upon request, rather than the record itself which belongs to the practitioner.</p> <p>#16 is amended to clarify that committing fraud, etc. in dealing with the public is also grounds for disciplinary action.</p> <p>#17 is added to address the need for a specific rule on responding to a violation noted on an inspection report; establishments are currently required to offer a plan of correction but there is no definitive time frame for compliance.</p>
172	Establishes the delegation responsibilities of a veterinarian	<p>Subsection B is amended for more clarity and specificity about delegation of sedation or anesthesia; currently regulations specify injections involving anesthetic drugs cannot be delegated but the intent is that assistants cannot induce sedation or anesthesia by any means. The monitoring of a sedated patient can be delegated to an assistant, but only if a licensee remains on the premises to handle any emergency that may arise from the sedation.</p>

		<p>No. 7 under subsection C is amended to clarify the Board’s meaning of “prepping for surgery” – specifically preparation of the patient or the equipment, rather than induction of anesthesia.</p> <p>Subsection E was amended to add “laser therapy” since that is a modality offered for animals under an order by the veterinarian.</p>
<p>173</p>	<p>New section on informed consent – this section is also added in Action 4277, which is in the final stage.</p>	<p>Subsection A specifies the general content of informed consent, including the risks, benefits and alternatives of the recommended surgery. It requires that the consent be obtained from the owner and documented in the patient record. It does not require written consent, but does require that the veterinarian explain the surgery in a manner that a reasonably prudent practitioner would tell an owner.</p> <p><i>The provision in subsection A is similar to requirements of the Board of Medicine for its practitioners. The expectation for informed consent is that an owner will have prior knowledge about what the surgery involves and the possible risks associated with it. The “reasonably prudent” language is included because there is not an expectation that a veterinarian explain the surgery in medical terms that only another practitioner would understand.</i></p> <p>Subsection B specifies that an exception for the informed consent may be made in an emergency situation when a delay would likely result in harm to the patient.</p> <p><i>Again, the language is taken from Medicine regulation and is necessary to protect patients and veterinarians in such situations.</i></p> <p>Subsection C specifies that if a veterinary student is to perform surgery, the informed consent must so state.</p> <p><i>The provision is included to assure consumers that they will be informed prior to a surgery if a student or preceptee is to perform the procedure.</i></p>
<p>180</p>	<p>Sets requirements to be registered as a veterinary establishment</p>	<p>The amendments change the terminology from full service or restricted to stationary or ambulatory to be more descriptive and current with veterinary practices.</p> <p>The deletion of “pounds” and description of shelters as “public or private” is consistent with changes in the animal laws made a few years ago.</p> <p>The addition of #3 in subsection is consistent with current Board policy which requires an establishment to be re-inspected if there is an addition or renovation that involves changes to the structure or composition of a surgery room.</p>



		<p>Registration holders are currently informed of the policy as such modifications change the basis for approval of an establishment registration.</p> <p>The amendment in subsection B clarifies that the VIC may not be the person who actually pays for the establishment fee; he may be an employee of the establishment which has another owner. It is his responsibility, however, as the VIC to ensure that the fees have been paid.</p>
181	Establishes the requirements for the veterinarian-in-charge (VIC)	<p>Subsection A is amended to eliminate the specific schedule for which the VIC must be on-site at the establishment. In its place, the regulation specifies that he must be on-site “as necessary” to provide oversight for patient safety and compliance with law and regulation.</p> <p><i>The Board acknowledges that oversight may vary by practice with some VIC’s needing to be on-site on a daily basis. The “standard” of no less than monthly led some VIC’s to believe that was the Board’s expectation. In fact, the expectation is that the VIC provide whatever oversight is necessary to ensure safety and compliance. Reports of unsafe practices or non-compliance may provide evidence that the VIC has failed in that obligation.</i></p> <p>Subsection C is added to consolidate the responsibilities of the VIC. Responsibility for transfer of records, as prescribed in § 54.1-2405 is currently in section 195. In addition to the Code requirement for notification to the public, etc., the Board is requiring that the VIC provide information about the location of patient records and disposition of drugs. <i>The regulation addresses situations in which a practice may close without notification to the Board and consumers are unaware of where they can get their records, and the Board is unaware of what happened to the controlled substances.</i></p>
185	Sets out the requirements for renewal of an establishment permit	<p>Subsection B is amended to emphasize that practicing veterinary medicine in an establishment with an expired permit may subject the licensee or permit holder to disciplinary action. <i>Discipline may currently be imposed but the amendment provides more specific language.</i></p>

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

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

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