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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>	Elimination of restriction on practical training in veterinary college
<b>Date this document prepared</b>	3/3/16

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

### Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.*

The purpose of the regulatory action is to eliminate a burdensome restriction on the preceptorships for veterinary students in which they gain practical experience under the direct supervision of a licensed veterinarian. Currently, students are not allowed to be engaged in a preceptorship until their final year in veterinary college. Therefore, they do not have the opportunity to practice what they are learning in the first three years and believe that they are less skillful and competent as practitioners when they graduate. The amendment is strongly supported by the Virginia-Maryland College of Veterinary Medicine.

The action also includes requirements for disclosure about a preceptee practicing at a veterinary establishment and informed consent for surgery on an animal

### 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.

N/A

### 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 February 16, 2016, the Board of Veterinary Medicine amended 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 (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 and Chapter 25 of this title...

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.

## 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.*

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The purpose of the regulatory action is to eliminate a burdensome restriction on the preceptorships for veterinary students in which they gain practical experience under the direct supervision of a licensed veterinarian. Currently, students are not allowed to be engaged in a preceptorship until their final year in veterinary college. Therefore, they do not have the opportunity to practice what they are learning in the first three years and believe that they are less skillful and competent as practitioners when they graduate. Since preceptees are restricted to perform only those tasks for which they have been adequately instructed and must practice under the on-premises supervision of a licensed veterinarian, the Board believes supervised practical experience through the course of veterinary college will be beneficial to patients and will adequately protect the health and safety of the public. Informed consent for surgery and disclosure about preceptee practice offers further protection and assurances for owners.

## Substance

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

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The amendment to section 130 requested by the petition for rule-making was as follows: *A veterinary student who is duly enrolled and in good standing in a veterinary college or school accredited or approved by the AVMA and in the final year of his training or after completion of an equivalent number of hours as approved by the board may be engaged in a preceptorship or externship.*

In addition to the requested change, the Board added provisions to reassure consumers that the veterinarian remains responsible for the animal, that the supervising veterinarian will be in the operatory with the preceptee whenever surgery is being performed, and that owners will be informed about a preceptee practicing in an establishment in order to have the right to specify who may treat the animal.

Also, the Board has added a new section on informed consent for surgery, so owners will have information about risks, benefits and alternatives, regardless of who is performing the surgery.

## Issues

*Please identify the issues associated with the proposed regulatory action, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the*

agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.

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- 1) The primary advantage to the public is veterinary students will have more hands-on experience with animals when they receive their veterinary degree and a full license to practice. With the additional disclosures and informed consent, the Board believes consumers will know whether there is a preceptor working in a veterinary practice and whether that preceptor will be involved with surgery on their animals. Consumers will have the option of refusing to have a preceptor doing any procedure on an animal; consequently, there should be 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.

**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.*

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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.*

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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.*

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There is no impact on the family.

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### 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.

There were no changes to the proposed regulation.

### 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.

At the public hearing conducted on December 2, 2015, three persons commented on the proposed regulation:

Lee Henkel noted that the changes made in proposed regulations relating to informed consent are a significant improvement over what was originally discussed. The “opt-out” system of noticing the public that the veterinary practice has a student working in it is convenient for veterinarians is not acceptable for owners. She advocates for an “opt-in” system in which owners must give specific consent to any student practice in a veterinary facility. Without that provision, she remains adamantly opposed to expansion of student training. *Board response: The Board understands the position of the commenter but believes the proposed regulation adequately protects the public, especially when a student is involved in a surgical procedure.*

Sharon Custer-Bogges has no problem with greater learning opportunities for students, it should not occur without the owners’ informed consent. *Board response: Same as above.*

Dr. Jennifer Daly (identified herself as a licensed clinical psychologist) said it is not the purpose of the Board to eliminate burdensome restrictions to allow training institutions to expand into unaccredited community clinics. The better way for protecting consumers is to develop standards and regulations through accreditation and registration of trainees. The Board does not conduct site visits to be sure training settings are providing oversight and supervision. Consumers have a right to informed consent about who is attending an animal and a right to complain to a regulatory board if something goes wrong.

*Board response: Same as above. The commenter made an analogy with training for students and residents in Psychology. The Board of Psychology does not “accredit” training sites or conduct site visits. Like psychology programs, the veterinary school in Virginia is accredited and must train students in accordance with accreditation standards. Regulations clearly state that the licensed veterinarian remains responsible for the care of an animal, so consumers do have an avenue for complaining about the care of their animal.*

The following comment was received by email from 4 persons, all of whom reside outside the United States:

The proposed regulations are significantly better than what was contained in the Notice of Intended Regulatory Action but are still insufficient. A notice posted in the office that a student may be working in the facility is inadequate; specific owner consent should be given when a student is performing any task which ordinarily requires licensure. *Board response: Regulations specify that the veterinarian remains responsible for the animal and that a student cannot be involved in surgery without informed consent. The Board believes the proposed regulations are adequate to protect the public and to allow students who have received adequate instruction in veterinary school to perform routine tasks in a veterinary facility.*

The following comments were received on Town Hall

Commenter	Comment	Agency response
Kathleen Kinsey	Posting a notice in the office is not sufficient; strongly objects if my animal is handled by someone other than the vet	Veterinary practices employ a number of persons other than a veterinarian who handle animals. There is no requirement for owner consent when an unlicensed assistant performs tasks which may be legally delegated. Veterinary students may only perform tasks for which they have received adequate instruction, so their knowledge of appropriate care is well beyond that of an assistant being newly trained in a facility. Additionally, current regulations allow a veterinary technician preceptee to perform duties in a practice while “duly enrolled” in a program; there is no limitation of such practice to the final year as there is with veterinary students. The difference between the two is in the performance of or assisting with surgery, and the regulations specifically require informed consent if a veterinary student is involved with surgery on an animal.
Lee Henkel	Same comment as the email comment noted above	Same response.
D. Stirpe	Owner consent for any situation in which a student will be performing a task which requires licensure	Same responses as above.
J chepeska	Would not let an unqualified med student practice on a family member	Veterinary students are not “unqualified”; they may perform tasks for which they are adequately trained.
Lydia pyun	Pets are family; show respect for them and their human parents and obtain consent for students to practice	Same responses as above.
J Florentine	Specific owner consent should be mandatory; posting a notice is not sufficient. A detailed statement and signature on a release form should be required.	Same responses as above.
Beth Woolsey	Right to know who is giving our animals treatment and how experienced they are.	Same responses as above – no requirement for consent for treatment by unlicensed assistants or veterinary technicians who provide a lot of the care in veterinary facilities.
Richard	Should require direct and particular	Such consent is required for surgery; should

Rutherford	informed consent documented with a signature.	not be necessary for routine care.
Molly Mittens Mom	Questions whether the student is regulated so if there is harm to the pet, there is accountability. Should require specific written informed consent. Would not allow a student to care for pets in any manner except for observation.	The veterinarian remains responsible for the animal's care and treatment and can be held accountable if there is harm. To allow a student to graduate from veterinary school and be given a full license to practice without practice, hands-on experience does not protect the public and the pets. The more experience a student can gain, while under supervision, the better prepared he or she is to practice independently – which is what they are licensed to do right out of vet school. Same responses as above to consent comment.
Kathe Walton	Same comment about owner consent	Same response as above.
Al Stein	Appreciates the changes about consent but not sure how we make sure vets give proper notice	A complaint can be filed with the Board if a consumer is aware that a veterinarian is not in compliance with the notice requirement.
Grace Wood	Same comment about owner consent	Same response as above.
Heather Hinkle	Should let the owner decide about the level of care; took her dog to Vet School and was informed that students were involved in his case.	The Board believes the proposed regulation further ensures that owners will be informed about student involvement in complex cases that involve some surgery.
Susan Adams	Unsupervised student missed significant symptoms during an emergency visit; want owners consent	The consumer has a right to file a complaint about the veterinarian's lack of oversight.
Cheryl Conley	Same comment about owner consent	Same response as above.
Dostana Ijusic	Same comment about owner consent	Same response as above.
Judith Sanders	Asked for changes to informed consent proposal.	Same response as above.
Ruth Hendrick	Opposed to allowing students at any level to work on pets. Same comment about owner consent.	Same response as above.
Scott Gorn	Same comment about consent; would not allow surgery on humans without giving consent	Proposed regulations do require informed consent for student involvement in surgery.
Jan martucci	Will not allow vet students to work on pet without expressed consent	Same response as above.
Lisa Mazzola	Same comment as email above	Same response as above.
Rachel Ely	Same comment as email above	Same response as above.
Pat Petro	Same comment about owner consent	Same response as above.
Dagmar Finch	Same comment about owner consent	Same response as above.
Joseph Taboada	As a veterinarian who teaches veterinary students, strongly favors the proposed changes. Students are being mentored and gaining clinical skills important to	The Board concurs with the comment.

	professional development. Participating in practice under the direct supervision of a veterinarian is important. Proposed language clearly articulates requirement for clients to be involved in the process.	
Jackie Jones	Supports the proposal; will enable students to get more hands-on experience	The Board concurs with the comment.
Devon Reed, LVT	Having worked with veterinarians fresh out of school, supports more time for hands-on experience; benefit to veterinarians and clinics in new doctors had more experience.	The Board concurs with the comment.
Susanna Nieddu	Vet student should not perform any type of surgery without consent	The proposed regulation does require consent.
Craig Reed, DVM	In an emergency with the vet available by skype or phone, there are some injuries that require immediate action	The proposed regulation allows for such situations.
B and E Graefe	Same comment about owner consent for performance of any task	Same response as noted above.
Ginny Welton	Posting a notice lacks sympathy and professionalism.	The comment is noted.
Edna Whittier	All students should be supervised by veterinarian during surgery and owner's consent required.	The proposed regulations so provide.
Sharon Custer-Boggess	Similar comment as made at public hearing.	Same response as above.
James McDonald, DVM	Students should get as much hands-one experience as possible with preceptorships	The Board concurs with the comment.
Margie Beane	Same as email comment noted above	Same response as above.
Rainbow Lonestar	Same comment about owner consent for all tasks	Same response as above.
Regan Backwood	Concerned about requirement for informed consent; burden on veterinarians as it is impossible to foresee all possible complications.	The requirement is the same as in human medicine; the information about risks, benefits and alternatives is what a "reasonably prudent practitioner in a similar practice would tell an owner." The Board recognizes that there are always unforeseen complications and possibilities which cannot be anticipated.
Danielle Payne	Same comment about owner consent for all tasks	Same response as above.
jo parr	Same comment about owner consent for all tasks	Same response as above.
Edna Whittier	Addendum to previous comment; a sign is inadequate.	Same response as above.
Karen Thomason, DVM	Doesn't believe student should be working outside of teaching hospital	As that is not the current practice, the Board does not concur.



Jackie Davis	Same comment about owner consent for all tasks	Same response as above.
Rebecca Dameron	Should have informed consent for all surgeries and a requirement for the vet to be present when a student is performing surgery.	The proposed regulation requires both.
Cassandra Cooper	Same comment about owner consent for all tasks	Same response as above.
Preston Boggess, MD	Notification is not sufficient; requirement for owner consent should be added.	The requirement was added to the proposed regulation.
Gail Kieler	Same comment about consent and notification	Same response as above.
Katherine Bishop	Same comment about consent and notification	Same response as above.
Matthew Allen	Same comment about consent and notification	Same response as above.
Jennifer pies	Not sure it's legal for students to be unsupervised in life altering situation.	The Board does not agree that the proposed regulation supports that comment.
Topcat Rescue	Same comment about consent	Same response as above.
Nicholas Silvey	Same comment about consent	Same response as above.
Mandy mckitrick	Should require consent for surgery by vet students	The proposed regulation does require consent.
Allison Anderson	Should require consent for surgery by vet students	The proposed regulation does require consent.
Marly wexier	Related her experience with a student working in an emergency vet practice.	The preceptee was working under the current regulation, not the proposed regulation.
Jean Hornberg	Same comment about need for consent	Same response as above.
Betsy Cousins-Coleman	Same comment about need for consent	Same response as above.
Noreen Nickolas	Same comment about need for consent	Same response as above.
Harry yeatts	Comment about performance of surgery	The proposed regulation requires consent for surgery.
Reevyn Aronson	Same comment about consent	Same response as above.
Douglas Britton	Same comment about consent	Same response as above.
Jim Best	Should require owner consent and supervision by licensed veterinarians	Consent is required for surgery and veterinarians are required to supervise the practice of students/preceptees.
Sidney Delson	Should require consent as in medicine	Informed consent requirement is same as regulation for medicine.
Janet Ameen-Lee	Same comment about consent	Same response as above.
Robin Patten	Same comment about consent and veterinarian supervision	Same response as above.
Elaine Becker	Comment about treatment of hedgehogs & need for consent; signage inadequate	Same response as above.
Jill Kortright	Same comment about consent	Same response as above.
Lisa Mazzola	Same comment about consent	Same response as above.

Mary Beane	Same comment about consent	Same response as above.
Sue	Same comment about consent	Same response as above.
Antonia & Andrew Chianis	Same comment about consent – would not allow student to touch my animals	Same response as above – commenter may not be aware of unlicensed assistants in veterinary practice.
Pat Petro	Same comment about consent	Same response as above.
Dani Duran	Same comment about consent	Same response as above.
Jacqueline Carrington	Same comment about consent	Same response as above.
Christopher Skipp	Same comment about consent	Same response as above.
Jane Whitmore	Same comment about consent	Same response as above.
Kate Garland	Same comment about consent	Same response as above.
Nancy Kelly	Same comment about consent	Same response as above.
Robin Eddington	Same comment about consent	Same response as above.
Anne Armistead	Same comment about consent	Same response as above.
Doris Potter	Same comment about consent	Same response as above.
Kate Sherwood	Same comment about consent	Same response as above.
Betsey beale	Same comment about consent	Same response as above.
Debra Perry	Same comment about consent	Same response as above.
Debby Bright	Recently graduated veterinarians are lacking in practical experience, so supports more experience earlier in education. Owners should be informed about procedures if license as veterinarian is required and student is performing	The Board concurs and believes the informed consent provision is appropriate.
Caroline Reznicek	Same comment about consent	Same response as above.
Susan Fredette	Same comment about consent	Same response as above.
Patricia Finn	Same comment about consent	Same response as above.
Leslee Eldard	Same comment about consent	Same response as above.
Garry Henkel	Same comment about consent	Same response as above.
Toni Stallworth	Same comment about consent	Same response as above.
Robert Stallworth	Same comment about consent	Same response as above.
Oma Gail Simmons	Same comment about consent	Same response as above.
Rainbow Lonestar	Same comment about consent	Same response as above.

**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*

Current section	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
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number		
130	Sets out requirements for practical training in a preceptorship or externship	<p>An amendment in subsection A will eliminate the restriction that practical training may only occur in the final year of veterinary college.</p> <p><i>Students, veterinarians, and the veterinary college at Virginia Tech have requested the amendment because it will provide students an opportunity to receive practical, supervised training throughout the curriculum. Students working as preceptees are only allowed to perform those tasks or procedures for which they have been specifically trained and for which they are supervised. Preceptors remain responsible for the care and well-being of the animal. For example, students learn to take histories in the beginning and progress to performance of surgery in their final year. As soon as students graduate from the college, they are eligible for full licensure as veterinarians. Practical experience gained throughout their education will ultimately benefit them and their patients. Additionally, the Board was told that the college is revamping and updating the curriculum to incorporate more experiential learning, so this amendment is strongly supported by the college.</i></p> <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 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</p>

		<p>treatment of the patient.</p> <p><i>The provision is not a new standard; supervisors have always been held accountable for the care and treatment of the animal, but the specificity of the regulation is for emphasis and clarity.</i></p>
<p>NEW 173</p>	<p>Sets out provisions for informed consent for surgery</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 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>