

<h1 style="margin: 0;">Regulatory Analysis Form</h1>		<p>is space for use by IRRC</p> <p style="text-align: center; font-weight: bold; font-size: 1.2em;">RECEIVED</p> <p>2000 MAR 1 PM 12:15</p> <p style="text-align: center; font-size: 0.8em;">REGULATORY REVIEW COMMISSION</p>	
<p>(1) Agency Department of State, Bureau of Professional and Occupational Affairs, State Board of Veterinary Medicine</p>		<p style="text-align: center; font-weight: bold; font-size: 1.1em;">Mizner</p>	
<p>(2) I.D. Number (Governor's Office Use)</p> <p style="font-size: 1.1em;">16A-576</p>		<p>IRRC Number: 1958</p>	
<p>(3) Short Title</p> <p>Professional Conduct for Veterinarians: Advertising</p>			
<p>(4) PA Code Cite</p> <p style="font-size: 1.1em;">49 Pa. Code §31.21</p>	<p>(5) Agency Contacts & Telephone Numbers</p> <p>Primary Contact: Teresa Lazo-Miller, Counsel State Board of Veterinary Medicine (717) 783-7200</p> <p>Secondary Contact: Joyce McKeever, Deputy Chief Counsel, Department of State (717) 783-7200</p>		
<p>(6) Type of Rulemaking (check one)</p> <p><input type="checkbox"/> Proposed Rulemaking</p> <p><input checked="" type="checkbox"/> Final Order Adopting Regulation</p> <p><input type="checkbox"/> Final Order, Proposed Rulemaking</p> <p><input type="checkbox"/> Omitted</p>	<p>(7) Is a 120-Day Emergency Certification Attached?</p> <p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes: By the Attorney General</p> <p><input type="checkbox"/> Yes: By the Governor</p>		
<p>(8) Briefly explain the regulation in clear and nontechnical language.</p> <p style="margin-top: 10px;">The regulation governs veterinarians who advertise the availability of emergency services by establishing a standard of conduct. The standard requires that veterinarians disclose in all advertisements the hours during which the services will be provided, indicate whether a veterinarian is on the premises or on call, and disclose whether the veterinarian's practice is limited to particular types of animals.</p>			
<p>(9) State the statutory authority for the regulation and any relevant state or federal court decisions.</p> <p style="margin-top: 10px;">The amendments are authorized under Sections 5(a) and (b) of the Veterinary Medicine Practice Act (Act), Act of December 27, 1974, P.L. 995, as amended, 63 P.S. §485.5(1) and (2).</p>			

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The regulation is not mandated.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Principle 5(c) requires veterinarians to include specific information in their advertisements concerning the availability of emergency veterinary services to more accurately inform the public as to what types of services are available at their veterinary establishments. This will enable animal owners to make more informed decisions when emergency care is needed for their animals.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

The advertising requirements in Principle 5(c) will more accurately inform the public of the specific veterinary services available. Without this regulation, advertising will result in less information being provided to the public and may result in unnecessary delays for clients with animals in need of emergency services.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Owners of animals are expected to benefit from more specific information as to the availability of veterinarians in emergency situations. Veterinarians are regulated through the regulations of the Veterinary Board.

The Board has no statistics on the number of animals whose owners seek emergency treatment through advertisement. However, the benefits to be derived from the regulation are generally related to the ability of animal owners to make informed decisions when they need emergency care for their animals. In life threatening emergencies, owners will need to know that a veterinarian is available on the premises; in other emergencies, a veterinarian on call would be sufficient.

Regulatory Analysis For.

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

Some veterinarians may experience an adverse effect (as additional costs) from the advertising regulation in Principle 5(c) if their advertisements do not already include the additional information concerning emergency veterinary care.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

All veterinarians who advertise the availability of emergency hour veterinary services will be required to comply with the advertising regulation.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The Board sought input from the public by disseminating drafts of the proposed regulations to the regulated community as well as the Pennsylvania Veterinary Medical Association, the Regional Veterinary Medical Associations, the Veterinary Technicians and Assistants Association of Pennsylvania, the Animal Health Commission, the University of Pennsylvania, and the Pennsylvania Association of Veterinary Technician Education.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

No legal, accounting or consulting costs are anticipated as a result of the advertising regulation. However, veterinarians who advertise emergency veterinary services may incur some additional advertising costs if their advertising of such services does not already contain the hours during which the services will be provided, whether there is a veterinarian on premises or on call, and whether the emergency practice is limited to particular types of animals.

Regulatory Analysis For

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Local governments would not be affected by this regulation.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

Aside from the administrative costs of promulgating the regulation, no additional legal, accounting or consulting activities are anticipated.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY	FY +1	FY +2	FY +3	FY +4	FY +5
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

The Board, State and Local government will incur no costs in implementing the regulation. Veterinarians who advertise emergency services will be required to add some additional information which may increase advertising costs.

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

Costs and benefits cannot be quantified, however, the public will benefit from having accurate information available.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

No nonregulatory alternatives were considered since the Board already has a regulation concerning advertising found at Principle 5(a) and (b). The logical approach is to add the new advertising requirement to the Board's current advertising regulations.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

See paragraph 22 above.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No federal licensure standards apply.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

This regulation is similar to one enacted in California approximately 19 years ago which has been very successful. No competitive disadvantage is anticipated.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The regulation adds Principle 5(c) to 49 Pa. Code §31.21, expanding current advertising requirements.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Board was available to consider comment from the public on the regulatory amendments during the course of its regularly scheduled meetings. Meetings were held in the Board offices at 116-124 Pine Street, Harrisburg, PA.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

No special provisions have been developed or anticipated.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulation will be effective on publication of the final form regulation in the Pennsylvania Bulletin.

(31) Provide the schedule for continual review of the regulation.

As part of its annual review process pursuant to Executive Order 1996-1, the Board will review the effectiveness of the addition of this regulation.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

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(Pursuant to Commonwealth Documents Law) REVIEW COMMISSION

#1958

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to
form and legality. Attorney General

Copy below is hereby certified to be a true and correct
copy of a document issued, prescribed or promulgated by:

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to form and legality.
Executive or Independent
Agencies.

BY: _____
(DEPUTY ATTORNEY GENERAL)

STATE BOARD OF VETERINARY MEDICINE
(AGENCY)

Bryan E. Dunlap

DOCUMENT/FISCAL NOTE NO. 16A-576

DATE OF APPROVAL

DATE OF ADOPTION: _____

2/3/00
DATE OF APPROVAL

BY: *Brian V. Harpster, V.M.D.*
BRIAN V. HARPSTER, V.M.D.

(Deputy General Counsel
(Chief Counsel,
Independent Agency
(Strike inapplicable
title)

TITLE: CHAIRMAN
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

[] Check if applicable
Copy not approved.
Objections attached.

[] Check if
applicable. No Attorney
General approval or
objection within 30 day
after submission.

NOTICE OF FINAL RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF VETERINARY MEDICINE
49 PA. CODE, CHAPTER 31
PROFESSIONAL CONDUCT FOR VETERINARIANS: ADVERTISING

The State Board of Veterinary Medicine (Board) adopts an amendment to 49 Pa. Code §31.21, Principle 5, Advertising (pertaining to necessary information when advertising emergency services), as set forth in Annex A.

Notice of Proposed Rulemaking was published at 28 Pa. B. 2927 (June 27, 1998). Publication was followed by a 30-day public comment period during which the Board received no comments from the general public. Neither the House Professional Licensure Committee (HPLC) nor the Senate Consumer Protection and Professional Licensure Committee made comments on the proposed rule.

On August 27, 1998, the Independent Regulatory Review Commission (IRRC) sent comments and suggestions to the Board.

Response to IRRC Comment

The IRRC expressed its concern that "anyone in need of emergency veterinary services" be able to "determine whether a particular veterinarian can meet their needs" with respect to whether the veterinarian's practice could accommodate particular types of animals. In response to IRRC's comments, the Board has added the requirement that veterinarians disclose specific limitations when advertising emergency services.

Second, IRRC requested that veterinarians advertising emergency services designate whether their services are available only at the veterinarian's facility or whether the veterinarian is available to travel to the site where the animal is located. The Board has not added such requirement to its regulation for several reasons. First, the Board does not perceive a need for this designation because animal owners who generally take their animals to the veterinarian's facility will likely continue to do so in the case of an emergency whereas owners whose animals are usually visited by the veterinarian will likely continue to rely on the veterinarian to provide on site emergency care. Second, the Board does not wish to limit the ability of a veterinarian to make the determination whether to travel to the animal or have the animal brought to the veterinary facility, as this may limit the veterinarian's ability to exercise professional judgment and may endanger rather than promote animal safety and welfare. Third, such a designation would apply only to veterinarians offering "on call" services, because a veterinarian could not be "on the premises" during set hours if the veterinarian may be away from the facility to tend to an injured animal on site.

IRRC also requested that the Board specify a time certain which would be considered a "reasonable time" under the regulation and distinguish between the time it takes to respond to an initial contact seeking emergency service from the time it takes for the veterinarian to actually begin treating the animal. In response to this comment, the Board determined it would not specify a particular time that would be considered "reasonable" for purposes of the Advertising

regulation. Rather, the Board believes that veterinarians are already bound by professional responsibility in offering and providing treatment and must be allowed to exercise professional judgment in the provision of services.

Finally, IRRC suggested the proposed rule be formatted to conform to the format of Principle 5. The Board agreed with the suggestion and made the change in final regulations.

Statutory Authority

The regulation is authorized under Sections 5(1) and (2) of the Veterinary Medicine Practice Act, the Act of December 27, 1974, P.L. 995, as amended, 63 P.S. §§485.5(1) and 485.5(2). Section 5(1) of the Act empowers the Board to adopt reasonable rules and regulations governing the practice of veterinary medicine as are necessary to enable it to carry out and make effective the purpose and intent of the Act. Section 5(2) of the Act empowers the Board to adopt rules and regulations of professional conduct appropriate to establish and maintain a high standard of integrity, skills and practice in the profession of veterinary medicine.

Fiscal Impact

The regulation will have no fiscal impact on the Commonwealth or its political subdivisions. Veterinarians who advertise emergency services may incur additional costs in amending their advertisements if the advertisements do not list the hours during which the emergency services will be provided and indicate whether there is a veterinarian "on the premises" or "on call" and indicate limitations in the practice, if any. These costs may ultimately be passed on to the public.

Paperwork Requirements

The regulation will create no additional paperwork for the Board or the private sector.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the board submitted a copy of the Notice of Proposed Rulemaking, published at 28 Pa. B. 2927 (June 27, 1998), to the Independent Regulatory Review Commission and to the Chairpersons of the House Committee on Professional Licensure and the Senate Committee on Consumer Protection and Professional

Licensure.

Publication of the Notice of Proposed Rulemaking was followed by a 30-day public comment period during which the Board received no written comment from the public. Subsequent to the close of the public comment period, the Board received no comments from the House or Senate Committee. The Board received and considered comments from the IRRC.

These final form regulations were (deemed) approved by the House Professional Licensure Committee on _____, and were (deemed) approved by the Senate Consumer Protection and Professional Licensure Committee on _____. IRRC met on _____, and approved the regulation in accordance with section 5(c) of the Regulatory Review Act.

Further Information

Individuals who need information about the regulation may contact Robert Kline, Administrative Assistant, State Board of Veterinary Medicine, P.O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-4848.

Order

The State Board of Veterinary Medicine finds:

- (1) That public notice of intention to adopt a regulation at 49 Pa. Code, Chapter 31, was given under sections 201 and 202 of the Commonwealth Documents Law, 45 P.S. §§1201- 1202, and the regulations promulgated under those sections at 1 Pa. Code §§7.1-7.2.
- (2) That the regulation of the State Board of Veterinary Medicine is necessary and appropriate for the administration of the Veterinary Medicine Practice Act.

The Board therefore ORDERS:

- (A) That the regulations of the State Board of Veterinary Medicine, 49 Pa. Code Chapter 31, are amended to read as set forth in the attached Annex.
- (B) That the Board shall submit a copy of the Annex to the Office of Attorney General and the Office of General Counsel for approval as required by law.

- (C) That the Board shall certify this Order and Annex and shall deposit them with the Legislative Reference Bureau as required by law.
- (D) That the regulations shall take effect immediately upon publication in the Pennsylvania Bulletin.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS
PART I. DEPARTMENT OF STATE
Subpart A. Professional and Occupational Affairs
CHAPTER 31. STATE BOARD OF VETERINARY MEDICINE

PROFESSIONAL CONDUCT

Principle 5. Advertising

(c) Advertising by veterinarians for emergency veterinary services shall provide information as to whether a veterinarian is on the premises or on call, and shall specify the hours during which emergency services are available.

(1) For the purposes of this section, "on the premises" means that a veterinarian is physically present at the veterinary establishment and is immediately available to render emergency services. "On call" means that a veterinarian is available to return calls requesting emergency services within a reasonable time and is available to render emergency services within a reasonable time.

(2) Veterinarians shall disclose specific limitations (i.e. exotics/avian/large animal/small animal) when advertising emergency services.



**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF VETERINARY MEDICINE**

(717) 783-7134

116 PINE STREET
P. O. BOX 2649
HARRISBURG, PA
17105-2649

March 1, 2000

The Honorable John R. McGinley, Chairman
Independent Regulatory Review Commission
14th Floor, Harrisstown 2
333 Market Street
Harrisburg, PA 17101

RE: Final Regulation - 16A-576
State Board of Veterinary Medicine
Professional Conduct for Veterinarians: Advertising

Dear Chairman McGinley:

Enclosed is a copy of a final rulemaking package of the State Board of Veterinary Medicine pertaining to professional conduct for veterinarians: advertising.

The Board will be pleased to provide whatever information your Commission may require during the course of its review of the rulemaking.

Sincerely,

A handwritten signature in black ink that reads "Brian V. Harpster, VMD".

Brian V. Harpster, V.M.D., Chairman
State Board of Veterinary Medicine

BVH:TLM:apm
Enclosures

- c: John T. Henderson, Chief Counsel
Department of State
Dorothy Childress, Commissioner
Bureau of Professional and Occupational Affairs
Joyce McKeever, Deputy Chief Counsel
Department of State
Herbert Abramson, Senior Counsel in Charge
Bureau of Professional and Occupational Affairs
Teresa Lazo-Miller, Counsel
State Board of Veterinary Medicine
State Board of Veterinary Medicine

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 16A-576

SUBJECT: State Board of Veterinary Medicine - Professional Conduct - Advertising

AGENCY: DEPARTMENT OF STATE

TYPE OF REGULATION

Proposed Regulation

X Final Regulation

Final Regulation with Notice of Proposed Rulemaking Omitted

120-day Emergency Certification of the Attorney General

120-day Emergency Certification of the Governor

Delivery of Tolled Regulation

a. With Revisions

b.

Without Revisions

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REVIEW COMMISSION

FILING OF REGULATION

DATE

SIGNATURE

DESIGNATION

3-1-00

Lore A. Clark

HOUSE COMMITTEE ON PROFESSIONAL LICENSURE

3/1/00

Sammy Weaver

SENATE COMMITTEE ON CONSUMER PROTECTION &
PROFESSIONAL LICENSURE

3/1/00

St. Helms

INDEPENDENT REGULATORY REVIEW COMMISSION

ATTORNEY GENERAL

LEGISLATIVE REFERENCE BUREAU

February 15, 2000