

IRRC Form 101-100		This space for use by IRRC
<p>(1) Agency</p> <p>Department of State, Bureau of Professional and Occupational Affairs, State Board of Veterinary Medicine</p>		<p>IRRC Number: <i>2160</i></p>
<p>(2) I.D. Number (Governor's Office Use)</p> <p>16A-5713</p>		
<p>(3) Short Title</p> <p>Applications for Licensure, Deletion of Examination Fees</p>		
<p>(4) PA Code Cite</p> <p>49 Pa.Code §§ 31.3, 31.35 and 31.41</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 checked="" type="checkbox"/> Final Rulemaking</p> <p><input 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>The final regulation eliminates references to the amount paid by applicants to take the North American Veterinary Licensure Examination and the Veterinary Technician National Examination. The fees for these examinations are set by the testing organization and not by the Board.</p> <p>The final regulation also directs applicants for licensure as a veterinary technician to submit the examination fee directly to the testing organization.</p> <p>Finally, the final regulation sets forth the information that must be provided on the application form by applicants for licensure as a veterinary technician.</p>		
<p>(9) State the statutory authority for the regulation and any relevant state or federal court decisions.</p> <p>The final amendments are authorized by Section 13 of the Veterinary Medicine Practice Act, Act of Dec. 27, 1974, P.L. 995 ("Act"), <u>as amended</u>, 63 P.S. § 485.13, which provides that the Board shall fix the fees required for examination by regulation. The proposed amendment regarding information provided by technician applicants is authorized by Section 11 of the Act, 63 P.S. §485.11, which provides that the Board shall promulgate by regulation the qualifications and requirements for certification of animal health technicians.</p>		

(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 by any federal or state law or court order.

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

Examination fees are set by the national testing organization that administers the examinations. Eliminating references to the current examination fee in the regulations will obviate the need to amend the regulations in the future should the examination fees be changed.

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

There are no specific public health, safety, environmental or general welfare risks associated with nonregulation.

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

Applicants for licensure will benefit by not having potentially conflicting sources of information relating to examination fees. The Board will benefit because the regulation will eliminate the need to make future adjustments to its regulations should the fees be changed.

(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.)

The Board has identified no groups or individuals who will be adversely affected by the regulation.

(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 applicants for the national veterinary or national veterinary technician examination are required to pay the fee set by the testing organization. This regulation does not affect the fee charged by the testing organization.

(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 regulation was published as proposed rulemaking in the December 2, 2000, Pennsylvania Bulletin, 30 Pa.B.6213. No comments were received during the 30 day public comment period.

(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 specific costs or savings to the regulated community are anticipated. However, the general operational costs of the Board may be reduced by eliminating the need to make future amendments to the Board's regulations.

(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.

There are no anticipated costs or savings to local government associated with 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.

Because the Board's operational expenses are paid from license renewal fees, there are no anticipated costs or savings to state government associated with this regulation.

(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:	NA	NA	NA	NA	NA	NA
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:	NA	NA	NA	NA	NA	NA
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:	NA	NA	NA	NA	NA	NA
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

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

NA

Regulation Cost-Benefit Form

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

N/A

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.

There are no adverse effects or costs associated with the regulation. The regulated community will benefit because the Board will not be required to make any future amendments to its regulations to conform to changing costs of the licensing examinations.

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

Because the fees are currently announced in the Board's regulations, no nonregulatory alternatives were considered.

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

The Board considered waiting until the examination fees were changed to make this change to its regulation, but determined that the change should be made before any change in fees, in order to eliminate potential confusion applicants may experience if the testing organization advertised a fee different than the fee listed in the regulation.

(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.

There are no federal standards relevant to the regulation.

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

The examinations required for Pennsylvania licensure are uniform national examinations. The fees charged are uniform throughout the U.S. Every state, and Canada, has adopted the NAVLE examination.

(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 will not affect any existing or proposed regulations of the Board or other state agencies.

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

The Board meets in public session at least six times per year at 124 Pine Street, Harrisburg, PA. Comments from the public are always invited at the Board's meetings. The remaining meeting dates for 2001 are as follows: July 19, September 6, October 18, and December 6. Information about the Board's meetings may be obtained from the Board Administrator, 124 Pine Street, Harrisburg, PA, 17105, (717) 783-4861.

(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.

The regulation will not change any existing reporting, record keeping or other paperwork requirements.

(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.

The Board has identified no particular groups or persons who will be affected by the regulation.

(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 upon final publication in the Pennsylvania Bulletin.

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

The Board continuously reviews its regulations.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

2160

DO NOT WRITE IN THIS SPACE

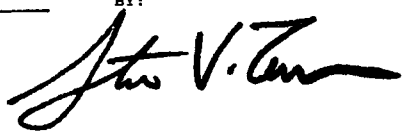
Copy below is hereby approved as to
form and legality. Attorney General

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

Copy below is approved as
to form and legality.
Executive or Independent
Agencies.

BY: _____
(DEPUTY ATTORNEY GENERAL)

STATE BOARD OF VETERINARY MEDICINE
(AGENCY)

BY: 

DOCUMENT/FISCAL NOTE NO. 16A-5713

DATE OF APPROVAL

DATE OF ADOPTION: _____

DATE OF APPROVAL
1/22/02

BY: 
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
Examinations, Application for Licensure and Certification, Fees

The State Board of Veterinary Medicine (Board) adopts an amendment to 49 Pa.Code §§ 31.3, 31.11, 31.32-.35 and 31.41, relating to applications for licensure and examination, as set forth in Annex A.

Notice of Proposed Rulemaking was published at 30 Pa.B. 6213 (December 2, 2000). Publication was followed by a 30-day public comment period during which the Board received no comments from the general public. The House Professional Licensure Committee (HPLC) submitted comments on February 2, 2001. The Senate Consumer Protection and Professional Licensure Committee made no comments. The Independent Regulatory Review Commission (IRRC) submitted comments to the proposed rulemaking on March 2, 2001.

Summary of Comments and Responses to Proposed Rulemaking

Section 31.32(a)(4)

The HPLC and IRRC recommended that the Board clarify the effect that a prior disciplinary action in another state might have on an applicant for licensure in Pennsylvania. Under the current Veterinary Medicine Practice Act (Act), Act of December 27, 1974, P.L. 995, No. 326, as amended, 63 P.S. §§ 485.1-485.35, and the Board's regulations, applicants for veterinary licensure must demonstrate that they are in good standing with the licensing board of any other state in which they are licensed. Section 31.32(a)(4) extends this requirement to an applicant for certification as an animal health technician.

The Board agrees with the HPLC and IRRC that this section of the regulation would benefit from clarification and adopts their recommendation. The Board finds that the clarity of Section 31.32 would be improved if it mirrored the language of Section 31.11(b), which requires the applicant to submit documentation as a prerequisite to licensure. Using this language also indicates that the Board reviews applications on a case-by-case basis. Because applications evidencing discipline in another state are reviewed on a case-by-case basis, the Board cannot predetermine what restrictions, if any, may be placed on an applicant with a disciplinary record. The Board may determine that it is appropriate to deny certification or upon certification, restrict the technician's practice upon consideration of factors such as the nature of the prior infraction, whether the individual's practice is limited in another state, and the length of time that has passed since the infraction.

In addition, the Board agrees with the HPLC and IRRC that the regulation should be amended to clarify that the Board will have the discretion to deny certification where the applicant has a history of disciplinary action. The Board adopts this proposal, and adds language to section 31.39 to indicate that the Board may refuse to certify an applicant or may, upon certification, place restrictions upon an applicant's practice in Pennsylvania based on prior disciplinary action by another state Board. As with an applicant who has a criminal history, an applicant who has been disciplined by another state board must come before the Board for a determination of whether the

applicant should be granted certification or licensure, should be granted limited or probationary certification or licensure, or should be denied certification or licensure.

Section 31.32(a)(5)

With respect to Sections 31.32(a)(4) and 31.32(a)(5), the HPLC questioned how the Board would be able to make a determination that a conviction is more than 10 years old or that an applicant is satisfactorily rehabilitated if the applicant need only provide a statement that the applicant has not been convicted of a drug related felony. IRRC also asked the Board to respond to the questions of the HPLC and, in addition, to explain the need for, and purpose of, an exception for an applicant who otherwise satisfies the qualifications contained in the Board's regulations.

Section 31.32(a)(5) is virtually a verbatim recitation of section 31.11(b)(4), which applies to applicants for veterinary licensure. Section 31.11(b)(4) is taken verbatim from section 9(b)(4) of the Act, 63 P.S. § 485.9(b)(4). Section 31.32(a)(5) would apply the same criteria to applicants for certification as an animal health technician as are applied to applicants for veterinary licensure with respect to past criminal convictions for drug-related felonies.

The Board has interpreted and applied section 9(b)(4) of the Act and section 31.11(b)(4) of the regulations to require an applicant for veterinary licensure to disclose whether they have been convicted of a felony under the Controlled Substance, Object, Device and Cosmetic Act (35 P.S. §§ 780-101 –780-144) or a felony relating to a controlled substance in a court of law of the United States or other state. An applicant who has not been convicted of such a crime is eligible for licensure. Any applicant who discloses that they have been convicted of a crime is required to provide a current criminal record history check from the Pennsylvania State Police and the State Police in any state where the applicant was convicted of a crime and certified copies of all relevant court documents. An applicant with a felony drug record is only eligible for licensure if the enumerated conditions are met: first, at least 10 years must have passed since the date of conviction, second, the applicant must demonstrate significant progress in personal rehabilitation, and third, the applicant must otherwise meet all requirements for licensure.

The Board can determine whether 10 years have elapsed since the date of the applicant's conviction from current criminal records history submitted by the applicant. An applicant with a criminal history related to drugs is required to demonstrate their progress in personal rehabilitation at a hearing before the Board. Evidence presented by the applicant may include documentation evidencing a period of sustained recovery from a prior drug abuse problem, evaluation by a licensed professional indicating that the applicant is at low risk to reoffend, lack of subsequent criminal convictions, satisfactory completion of criminal probation, work history, personal recommendations, and the applicant's testimony.

The HPLC and IRRC also questioned the need for subsection 31.32(a)(5)(iii), which would require a technician applicant who had been convicted of a felony to "otherwise satisf[y] the qualifications contained in the Board's regulations." This language almost verbatim mirrors the

language of subsection 31.11(b)(4)(iii), which applies to applicants for veterinary licensure, as is required by Section 9(b)(4)(iii) of the Act, 63 P.S. § 485.9(b)(4)(iii). The language is intended to indicate that section 31.32(b)(5) does not contain the complete list of licensure qualifications for persons with drug related felonies in their background.

Just as the Act gives the Board discretion in granting, refusing, or restricting a license to practice veterinary medicine, the Board's regulations give the Board discretion in granting, refusing, suspending, revoking or otherwise restricting a certificate as an animal health technician. (See 63 P.S. §§ 485.21 and 485.24, 49 Pa. Code §§ 31.32 and 31.39). For example, a veterinary applicant who has been disciplined in another state for failing to maintain his/her veterinary clinic in a clean and sanitary condition may be required to report to the Board any change in employment and submit to random inspections of their facility. The amendment to Sections 31.32(a)(4) and 31.32(a)(5) would permit the Board, pursuant to 49 Pa. Code §§31.39(a)(4) - (6), to impose an appropriate restriction on a technician's license. For example, when considering the application of a technician disciplined in another state for exceeding the allowed scope of practice, the Board might grant a license conditioned upon completion of a course on the scope of practice of a technician in Pennsylvania, or monitoring of their practice by the supervising veterinarian.

Sections 31.33 and 31.11(a)

The IRRC also commented on Sections 31.33 and 31.11(a). IRRC first suggests that the Board's regulation should instruct applicants for certification as an animal health technician how to obtain application forms for taking the animal health technician examination from the testing organization. Applicants to take the animal health technician examination are students in a school that offers a degree program in veterinary technology. The animal health technician examination is a standard examination required for licensure in all 50 states. The schools offering these programs provide their students with extensive information regarding the examination. The information is also available from the Board's website. The Board does not believe it is necessary to provide these students with contact information in the regulation, and therefore declines to make the suggested modification.

In addition, the IRRC suggested that the regulation should inform technician applicants of where to find the testing dates for the veterinary technician national examination. For the reasons explained above, the Board finds it unnecessary to include this information in the regulation.

Finally, the IRRC questioned why the Board was deleting its telephone number from the regulation. The telephone number currently in the regulations is not correct and has been out of date since at least 1998. The Bureau of Professional and Occupational Affairs is likely to move to other offices before the regulations are published. Rather than publish another incorrect telephone number, the Board determined it should remove the telephone number from its regulations.

Statutory Authority

The regulation is authorized under Sections 5(7) of the Veterinary Medicine Practice Act, the Act of December 27, 1974, P.L. 995, No. 326, as amended, 63 P.S. §§ 485.5(7). Section 5(7) of the Act empowers the Board to prescribe the subject, character, manner, time and place of the filing of application. In addition, Section 11 of the Act, 63 P.S. § 485.11, directs the Board to promulgate by regulation, the qualifications and requirements for the certification and regulation of animal health technicians.

Fiscal Impact and Paperwork Requirements

The regulation will have no fiscal impact on the Commonwealth or its political subdivisions. The regulation will create no additional paperwork for the Board or the private sector.

Compliance with Executive Order 1996-1

Pursuant to Executive Order 1996-1, the Board found compelling need for this regulatory amendment.

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 30 Pa.B. 6213 (December 2, 2000), 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. The Board received and considered comments from the House or Senate Committee. The Board received and considered comments from the HPLC and the IRRC.

These final form regulations were 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 (deemed) approved the regulation in accordance with section 5(c) of the Regulatory Review Act.

Additional 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.

Findings

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.

Order

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

GENERAL PROVISIONS

§31.3. Examinations

(a) The examination required as a prerequisite to original licensure as a veterinarian is the North American Veterinary Licensing Examination (NAVLE). The examination will be given at least annually [and at other times deemed appropriate by the Board, in consultation with] by the National Board Examination Committee.

(b) Applications to take the licensing examinations, together with instructions for applicants, including deadlines for filing and paying fees, may be obtained from the Administrative Office of the Board by [writing or telephoning] contacting the State Board of Veterinary Medicine, Post Office Box 2649, Harrisburg, Pennsylvania, 17105-2649 [, (717) 783-1389], veterina@pados.dos.state.pa.us.

(c) Examination applications and the fee required [by §31.41 (relating to schedule of fees)] shall be submitted directly to the National Board Examination Committee [professional testing organization designated by the Board at least 60 days prior to the examination date].

LICENSURE

§31.11. Application for licensure.

(a) *Application forms.* Application forms for original or reciprocal licensure may be obtained from the Administrative Office of the Board by [writing or telephoning] contacting the State Board of Veterinary Medicine, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649 [, (717) 763-1389], veterina@pados.state.pa.us, or by accessing the Board's web page at www.dos.state.pa.us/bpoa/vetbd/mainpage.htm. Application forms must be returned to the Board at least 60 days prior to the first day of the NAVLE testing period.

* * * *

ANIMAL HEALTH TECHNICIANS AND NONCERTIFIED EMPLOYEES

§31.32. Certification.

(a) AS A PREREQUISITE TO ORIGINAL CERTIFICATION ~~The Board will grant certification~~ as an animal health technician, AN ~~to an applicant~~ SHALL SUBMIT ~~who has [fulfilled the following criteria]~~ provided the following DOCUMENTATION TO THE BOARD:

(1) A completed and signed application for animal health technician certification.

~~[(1)]~~(2) Evidence of satisfactory performance [of] on the proficiency examination as determined by the Board.

~~[(2)]~~(3) Evidence of satisfactory completion of an approved program for the training and education of animal technicians.

(4) A letter of good standing from the licensure board of each state where the applicant has held a license as an animal health technician, if any, reporting the outcome of disciplinary actions taken against the applicant in that state.

(5) A statement from the applicant that the applicant has not been convicted of a felony under The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. 1780-101 - 780-144), or convicted of a felony relating to a controlled substance in a court of law of the United States or any other state, territory or country unless the following apply WITHIN THE LAST 10 YEARS. AN APPLICANT CONVICTED OF SUCH A FELONY MORE THAN 10 YEARS AGO SHALL ALSO SUBMIT THE FOLLOWING:

(i) PROOF THAT At least 10 years have elapsed from the date of conviction.

(ii) The applicant satisfactorily demonstrates to the Board SATISFACTORY DOCUMENTARY EVIDENCE that the applicant has made significant progress in personal rehabilitation since the conviction so that licensure of the applicant should not be expected to create a substantial risk of harm to the health and safety of patients or the public or a substantial risk of further criminal violations.

(iii) STATISFACTORY DOCUMENTARY EVIDENCE THAT The applicant otherwise satisfies the qualifications contained in the Board's regulations.

(b) The fee for application for [initial] certification is as specified at §31.41 (relating to schedule of fees).

§31.33. Applications.

(a) An applicant for certification by examination shall complete and file an application with the Board as specified in §31.32 and remit to the Board the fee specified in §31.41. An applicant for certification by examination [as an animal health technician] shall also complete and file an application for the veterinary technician national examination and the required fee directly with the professional testing organization, [designated by the Board an Animal Health Technician Certification Application.] Both applications may be obtained from the professional testing organization. [Applications shall be filed with the professional testing organization at least 60 days prior to the examination date.]

(b) An applicant for certification as an animal health technician by endorsement shall complete and file with the Board an application for certification by endorsement on forms prescribed by the Board. The application form may be obtained from the Administrative Office of the State Board of Veterinary Medicine, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649 or by accessing the Board's web page at www.dos.state.pa.us/bpoa/vetbd/mainpage.htm.

[(c) Application forms may be obtained from the Administrative Office of the State Board of Veterinary Medicine, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649, or by telephone at (717) 783-1389.]

§31.34. Qualification for examination.

An applicant for examination [certification as an animal health technician] shall be a graduate of an approved school.

§31.35. Examinations.

(a) The examination required for certification as an animal health technician is the Veterinary Technician National Examination (VTNE). [The examination will be offered at least once annually in this Commonwealth at a location to be determined by the Board, in consultation with the professional testing organization under contract with Board.]

(b) An applicant failing to pass an examination for which the applicant has previously qualified shall be reexamined at the applicant's request by submitting a new application and by paying the required fee, [as specified in §31.41 (relating to schedule of fees.)]

* * * *

§ 31.39. Grounds for disciplinary proceedings.

(a) The Board may suspend or revoke certification of an animal health technician or otherwise discipline a certified animal health technician OR REFUSE TO CERTIFY AN APPLICANT, OR, UPON CERTIFICATION, RESTRICT THE PRACTICE OF AN APPLICANT who is found guilty by the Board or by a court of one or more of the following:

FEEES

§31.41. Schedule of fees.

An applicant for a license, certificate or service shall submit a payment at the time of the request under the following fee schedule:

Veterinarians:

[North American Veterinary Licensing Examination \$325]

Animal Health Technicians:

[Veterinary Technical National Examination (VTNE)
(Effective January 1996) \$125]

Acupuncturist registration:
 Application \$30
 Biennial renewal \$40
 Registration, acupuncture supervisor \$30

Drugless therapist license:
 Biennial renewal \$35

Radiology technician:
 Application for examination \$25

Respiratory care practitioner certificate:
 Application, temporary permit \$30
 Application, initial certification \$30
 Biennial renewal \$25

Verification or certification:
 Verification of status \$15
 Certification of records \$25

(b) **Examination fees.** The Board has adopted Nationally recognized examinations in each licensing class. Fees are established by the National owners/providers of the examinations and are indicated in the examination applications.

§ 16.13a. [Temporary waiver of biennial registration fees] (Reserved).

[Biennial registration fees in § 16.13 (relating to licensure, certification, examination and registration fees) are waived until the expiration of the 1987-88 biennial registration period.]

§ 16.17. Certification of license, certificate or registration status.

(a) The status of a license, certificate or registration issued by the Board will be certified by the Board to other jurisdictions or persons upon formal application and payment of [\$10] the fee indicated under § 16.13 (relating to licensure, certification, examination and registration fees).

(c) A request to certify the status of a person's license, certificate or registration or information regarding a person's license, certificate or registration status shall be forwarded to the Board, accompanied by [a] the fee [of \$10] indicated under § 16.13 in the form of a certified check, cashier's check, money order or personal check payable to the Commonwealth of Pennsylvania.

CHAPTER 18. STATE BOARD OF MEDICINE—PRACTITIONERS OTHER THAN MEDICAL DOCTORS

Subchapter F. RESPIRATORY CARE PRACTITIONERS

§18.303. [Fees] (Reserved).

[The following is the schedule of fees charged by the Board:

- (1) Temporary permit..... \$15
- (2) Initial certification..... \$15
- (3) Certification examination..... \$90
- (Effective 7-96)..... \$100

- (4) Reexamination..... \$60
- (5) Biennial renewal of certification..... \$25

[Pa.B. Doc. No. 00-2062. Filed for public inspection December 1, 2000, 9:00 a.m.]

STATE BOARD OF VETERINARY MEDICINE

[49 PA. CODE CH. 31]

Examinations, Application for Licensure and Certification, Fees

The State Board of Veterinary Medicine (Board) proposes to amend §§ 31.3, 31.11, 31.32-31.35 and 31.41 to read as set forth in Annex A. The proposed rulemaking would amend the Board's regulations to accurately reflect the provision and submission of applications for licensure as a veterinarian and for certification as an animal health technician. In addition, the proposed rulemaking deletes references to the fees charged by the testing organizations from the schedule of fees for both the National veterinary examination and National veterinary technician examination. Finally, the proposed rulemaking reflects the additional questions relating to an applicant's background that appear on the application for certification as an animal health technician.

Effective Date

The final-form regulations would be effective on final publication in the *Pennsylvania Bulletin*.

Statutory Authority

Section 5 of the Veterinary Medicine Practice Act (act) (63 P. S. § 485.5), sets forth the powers and duties of the Board. Section 5(7) of the act directs the Board to prescribe the subject, character, manner, time and place of the filing of applications for examinations. In addition, section 11 of the act, (63 P. S. § 485.11) directs the Board to promulgate by regulation the qualifications and requirements for the certification and regulation of animal health technicians.

Background and Need for the Proposed Rulemaking

Provision and Submission of Applications

The amendments proposed to §§ 31.3 and 31.11 (relating to examinations; and application for licensure) reflect the changes that have been made to the applications for licensure by examination for veterinarians. By way of final rulemaking published at 30 Pa.B. 3044 (June 17, 2000), the Board established the North American Veterinary Licensing Examination (NAVLE), administered by the National Board Examination Committee, as the examination required for licensure in this Commonwealth. Applicants for licensure by examination shall request the application for this examination from the Board and then shall submit the application form, along with the required fee, directly to the testing organization. A separate application form is mailed to applicants with the examination application; this application shall be completed and returned to the Board.

The National Board Examination Committee sets the deadline by which applications shall be received, therefore, references to the time by which the examination application shall be submitted is deleted from the regula-

tions. In contrast, the application form that is submitted to the Board will be submitted at least 60 days prior to the first day of the administration of the NAVLE, so this information is added to the regulations.

The amendments proposed to §§ 31.33—31.35 (relating to applications; qualification for examination; and examinations) reflect changes to the application procedure for applicants for certification as an animal health technician.

The proposed amendment to § 31.33 reflects that applicants for certification by examination receive two application forms from the professional testing organization. One of the forms is returned, with the examination fee, to the professional testing organization. The second application form is returned, with the required fee, to the Board. The proposed amendments to § 31.33 also reflect that there is only one application for certification by endorsement and that this application is obtained from and submitted to the Board.

The proposed amendment to § 31.34 clarifies that a person who wishes to take the veterinary technician National examination shall be a graduate of an approved school. This amendment clarifies the Board's position that only graduates of approved schools who are seeking certification as an animal health technician may qualify to take the examination. A person who wishes to take the examination solely for the purpose of assisting legitimate applicants to pass the test do not qualify to take the examination.

The proposed amendments to § 31.35 serve to reflect that the professional testing organization, not the Board, determines the frequency and location of the Veterinary Technician National Examination. In addition, because the professional testing organization, not the Board, determines the fee charged for the examination, the proposed amendment deletes references to the cost of the examination in the Board's schedule of fees in § 31.41 (relating to schedule of fees).

Additional Requirements for Certification as an Animal Health Technician

The proposed amendment to § 31.32 (relating to certification) reflects that the technician application contains questions related to an applicant's criminal history and history of licensure in other states. The proposed amendments require that an applicant for licensure as an animal health technician disclose whether they have ever been licensed as such in another state and whether another state's licensing board has ever taken disciplinary action against that license. In addition, the proposed amendment would require applicants to disclose whether they had ever been convicted of a felony prohibited by The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144), or any felony relating to a controlled substance in another court, unless the conviction is more than 10 years old. The proposed amendment parallels the requirements for licensure as a veterinarian in the section 9 of the act (63 P. S. § 485.9). The proposed amendments would not automatically preclude an applicant with a felony record related to a drug offense from obtaining certification; however, the applicant would be required to demonstrate to the Board that they are no longer at risk of committing drug-related offenses.

Because the grant of a license to practice as an animal health technician may permit the licensee access to controlled substances and other drugs, the Board believes it is appropriate to conduct the same type of prescreening of these applicants as is conducted for applicants seeking licensure as a veterinarian.

Elimination of References to Examination Fees

The proposed amendment to § 31.41 deletes references to the North American Veterinary Licensing Examination fee of \$325 and the Veterinary Technician National Examination fee of \$125. These fees are set by the administrators of the examinations, not by the Board. The fees are uniform throughout the United States. To avoid the necessity of amending its regulations whenever the examination administrator might change the fees, the Board proposes to delete references to the fees.

Description of Proposed Amendments

The proposed rulemaking would amend the Board's regulations to reflect that the two applications for veterinary licensure are obtained from the Administrative Office of the Board and that one application is returned to the Board and one application is submitted, along with the required fee, directly to the National examination administrator. The proposed rulemaking would also amend the Board's regulations to reflect that the two applications for animal health technician certification are obtained directly from the professional testing organization and that one application is returned to the Board and one application is submitted, along with the required fee, directly to the testing organization. Finally, the proposed rulemaking would delete references to the cost of the veterinary examination and veterinary technician examination because these fees are set by the National examination administrator and professional testing organization and not by the Board.

Fiscal Impact

The proposed amendments will have no fiscal impact on the Board or its licensees. The proposed amendments should have no fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

The proposed amendments will require the Board to alter some of its forms to reflect the new biennial renewal fees; however, the proposed amendments should not create additional paperwork for the private sector.

Sunset Date

The Board monitors its regulations on a continuing basis. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (7 P. S. § 745.5(a)), on November 14, 2000, the Board submitted a copy of these proposed amendments to IRRC and the Chairpersons of the House Professional Licensure Committee and Senate Consumer Protection and Professional Licensure Committee for review and comment. In addition to submitting the proposed amendments, the Board has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1 "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC has objections to any portion of the proposed amendments, it will notify the Board within 10 days after the expiration of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final-form publication of the regulations, by the Board, the General Assembly and the Governor of objection raised.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Robert Kline, Administrator, State Board of Veterinary Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

BRIAN V. HARPSTER, V.M.D.
Chairperson

Fiscal Note: 16A-5713. No fiscal impact; (8) recommends adoption.

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

GENERAL PROVISIONS

§ 31.3. Examinations.

(a) The examination required as a prerequisite to original licensure as a veterinarian is the North American Veterinary Licensing Examination (NAVLE). The examination will be given at least annually [and at other times deemed appropriate by the Board, in consultation with] by the National Board Examination Committee.

(b) Applications to take the licensing examinations, together with instructions for applicants, including deadlines for filing and paying fees, may be obtained from the Administrative Office of the Board by [writing or telephoning] contacting the State Board of Veterinary Medicine, Post Office Box 2649, Harrisburg, Pennsylvania, 17105-2649 [; (717) 783-1389], veterina@pados.dos.state.pa.us.

(c) Examination applications and the fee required [by § 31.41 (relating to schedule of fees)] shall be submitted directly to the [professional testing organization designated by the Board at least 60 days prior to the examination date] National Board Examination Committee.

LICENSURE

§ 31.11. Application for licensure.

(a) Application forms. Application forms for original or reciprocal licensure may be obtained from the Administrative Office of the Board by [writing or telephoning] contacting the State Board of Veterinary Medicine, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649 [; (717) 783-1389], veterina@pados.state.pa.us, or by accessing the Board's web page at www.dos.state.pa.us/bpoa/vetbd/mainpage.htm. Application forms shall be returned to the Board at least 60 days prior to the first day of the NAVLE testing period.

ANIMAL HEALTH TECHNICIANS AND NONCERTIFIED EMPLOYEES

§ 31.32. Certification.

(a) The Board will grant certification as an animal health technician to an applicant who has [fulfilled the following criteria] provided the following:

(1) A completed and signed application for animal health technician certification.

(2) Satisfactory performance [of] on the proficiency examination as determined by the Board.

[(2)] (3) * * *

(4) A letter of good standing from the licensure board of each state where the applicant has held a license as an animal health technician, if any, reporting the outcome of disciplinary actions taken against the applicant in that state.

(5) A statement from the applicant that the applicant has not been convicted of a felony under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101-780-144), or convicted of a felony relating to a controlled substance in a court of law of the United States or any other state, territory or country unless the following apply:

(i) At least 10 years have elapsed from the date of conviction.

(ii) The applicant satisfactorily demonstrates to the Board that the applicant has made significant progress in personal rehabilitation since the conviction so that licensure of the applicant should not be expected to create a substantial risk of harm to the health and safety of patients or the public or a substantial risk of further criminal violations.

(iii) The applicant otherwise satisfies the qualifications contained in the Board's regulations.

(b) The fee for application for [initial] certification is as specified [at] in § 31.41 (relating to schedule of fees).

§ 31.33. Applications.

(a) An applicant for certification by examination shall complete and file an application with the Board as specified in § 31.32 (relating to certification) and remit to the Board the fee specified in § 31.41 (relating to schedule of fees). An applicant for certification [as an animal health technician] by examination shall also complete and file an application for the veterinary technician National examination and the required fee directly with the professional testing organization [designated by the Board as an Animal Health Technician Certification Application]. Both applications may be obtained from the professional testing organization. [Applications shall be filed with the professional testing organization at least 60 days prior to the examination date.]

(b) An applicant for certification as an animal health technician by endorsement shall complete and file with the Board an application for certification by endorsement on forms prescribed by the Board. The application form may be obtained from the Administrative Office of the State Board of Veterinary Medicine, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649 or by accessing the Board's web page at www.dos.state.pa.us/bpoa/vetbd/mainpage.htm.

[(c) Application forms may be obtained from the Administrative Office of the State Board of Veterinary Medicine, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649, or by telephone at (717) 783-1389.]

§ 31.34. Qualification for examination.

An applicant for [certification as an animal health technician] examination shall be a graduate of an approved school.

§ 31.35. Examinations.

(a) The examination required for certification as an animal health technician is the Veterinary Technician National Examination (VTNE). [The examination will be offered at least once annually in this Commonwealth at a location to be determined by the Board, in consultation with the professional testing organization under contract with Board.]

(b) An applicant failing to pass an examination for which the applicant has previously qualified shall be reexamined at the applicant's request by submitting a new application and, by paying the required fee [as specified in § 31.41 (relating to schedule of fees)]

FEEs

§ 31.41. Schedule of fees.

An applicant for a license, certificate or service shall submit a payment at the time of the request under the following fee schedule:

Veterinarians:

[North American Veterinary Licensing Examination \$325]

Animal Health Technicians:

[Veterinary Technical National Examination (VTNE) (Effective January 1996) \$125]

(Pa.B. Doc. No. 00-2063. Filed for public inspection December 1, 2000, 9:00 a.m.)



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

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-7134

February 11, 2002

The Honorable John R. McGinley, Jr., Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101


Re: Final Regulation
State Board of Veterinary Medicine
16A-5713: Applications, Examination Fees

Dear Chairman McGinley:

Enclosed is a copy of a final rulemaking package of the State Board of Veterinary Medicine pertaining to applications for licensure and examination fees.

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

Sincerely,


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

BVH/TLM:kmh

Enclosure

cc: John T. Henderson, Jr., Chief Counsel
Department of State
Albert H. Masland, Commissioner
Bureau of Professional and Occupational Affairs
Joyce McKeever, Deputy Chief Counsel
Department of State
Philip Zarone, Regulatory Counsel
Department of State
Herbert Abramson, Senior Counsel in Charge
Department of State
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-5713

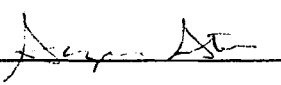
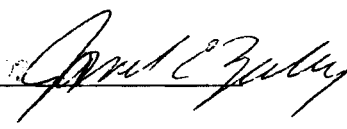
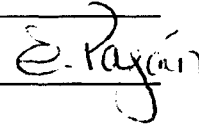
SUBJECT: Examinations, Application for Licensure and Certification, Fees
State Board of Veterinary Medicine, 49 Pa. Code, Chapter 31

AGENCY: DEPARTMENT OF STATE

TYPE OF REGULATION

- Proposed Regulation
- 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

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
2-11-02		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
2-11-02		SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
Feb. 11, 2002		INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU

February 11, 2002