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**INDEPENDENT REGULATORY REVIEW COMMISSION  
COMMONWEALTH OF PENNSYLVANIA  
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July 24, 2003

Brian V. Harpster, V.M.D., Chairman  
State Board of Veterinary Medicine  
2601 North 3rd Street  
Harrisburg, PA 17110

Re: Regulation #16A-5712 (IRRC #2276)  
State Board of Veterinary Medicine  
Professional Conduct; Prescription Drugs

Dear Chairman Harpster:

The Independent Regulatory Review Commission disapproved your regulation on July 24, 2003. Our Order is enclosed and will be available on our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us).

Within 40 days of receipt of our Order, Section 7(a) of the Regulatory Review Act requires you to select one of the following options: (1) proceed with promulgation under Section 7(b); (2) proceed with promulgation under Section 7(c); or (3) withdraw the regulation. If you do not take any action within this period, the regulation is deemed withdrawn.

If you or your staff has any questions, please contact Robert E. Nyce, our Executive Director, at 783-5417.

Sincerely,

Alvin C. Bush  
Vice Chairman

evp

Enclosure

cc: Honorable Thomas P. Gannon, Majority Chairman, House Professional Licensure Committee  
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure Committee  
Honorable Robert M. Tomlinson, Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Pedro A. Cortes, Secretary, Department of State

**INDEPENDENT REGULATORY REVIEW COMMISSION  
DISAPPROVAL ORDER**

Commissioners Voting:

Public Meeting Held July 24, 2003

Alvin C. Bush, Vice Chairman, dissenting  
Daniel F. Clark, Esq.  
Arthur Coccodrilli  
Murray Ufberg, Esq.

Regulation No. 16A-5712  
State Board of Veterinary Medicine  
Professional Conduct; Prescription Drugs

On June 10, 2002, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Veterinary Medicine (Board). This rulemaking amends 49 Pa. Code § 31.21. The proposed regulation was published in the June 22, 2002 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on June 17, 2003.

The final-form regulation establishes requirements and standards for prescribing and dispensing both prescription and non-prescription drugs. Additionally, the regulation allows a veterinarian to refuse a client's request for a written prescription if the veterinarian has a good faith belief that the prescription may be misused.

One issue, which we raised in our comments, remains a concern. Our comments suggested that the final-form regulation require veterinarians to inform clients that they have the option of receiving a written prescription that can be filled elsewhere. The Board did not include such a requirement in the final-form regulation.


We believe that notification to the consumer of the opportunity to request a written prescription is in the public interest and will not impose an unreasonable burden upon veterinarians (71 P.S. §§ 745.5b(b)(1)(i) and (ii), and (b)(3)).

We have determined this regulation is consistent with the statutory authority of the Board (63 P.S. § 485.5(2)) and the intention of the General Assembly. However, after considering all of the other criteria of the Regulatory Review Act discussed above, we find promulgation of this regulation is not in the public interest.

**BY ORDER OF THE COMMISSION:**

This regulation is disapproved.



  
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Alvin C. Bush, Vice Chairman