

Regulatory Analysis Form

This space for use by IRRC

(1) Agency

Department of State, Bureau of Professional and
Occupational Affairs, State Board of Veterinary Medicine

(2) I.D. Number (Governor's Office Use)

16A-5715

IRRC Number:

2391

(3) Short Title

Implanting Electronic Identification; Certified Veterinary Technicians

(4) PA Code Cite

49 Pa. Code §§ 31.1, 31.31 – 31.33,
31.35 and 31.38 – 31.41

(5) Agency Contacts & Telephone Numbers

Primary Contact: Teresa Lazo-Miller, Counsel

State Board of Veterinary Medicine (717) 783-7200

Secondary Contact: Joyce McKeever, Deputy Chief

Counsel, Department of State (717) 783-7200

(6) Type of Rulemaking (check one)

☐ Proposed Rulemaking
☒ Final Order Adopting Regulation
☐ Policy Statement

(7) Is a 120-Day Emergency Certification
Attached?

☒ No
Yes: By the Attorney General
Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

In February 2003, amendments to the Veterinary Medicine Practice Act (act) (63 P.S. §§ 485.1 – 485.33) by Act 167 of 2002 (Dec. 9, 2002) became effective. One of the amendments to the act provided that implanting electronic identification is the practice of veterinary medicine. The amendment also provided for the Board to promulgate regulations in this area. The rulemaking would allow certified veterinary technicians to implant electronic identification under indirect veterinary supervision and would allow noncertified employees of a veterinarian to implant electronic identification under direct veterinary supervision. Act 167 also changed the name animal health technician to veterinary technician and changed the grounds for disciplining a veterinarian or technician. These changes are reflected in the rulemaking.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Section 3 of the act (Definitions) was amended to change the name animal health technician to veterinary technician. Section 21 of the act was amended to provide grounds for disciplining technicians and veterinarians who are disciplined in another state or who are convicted of a misdemeanor crime related to the profession or any crime of moral turpitude.

Section 3(10)(viii) of the act (63 P.S. § 485.3(10)(viii)) provided that the practice of veterinary medicine includes the practice by any person who implants electronic identification, as determined by the Board. Section 5(2) of the act (63 P.S. § 485.5(2)) authorizes 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.

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(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 mandated by state law in that it conforms the Board's regulations to the statute as amended by Act 167 of 2002.

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

The regulation allows certain persons other than veterinarians to implant electronic identification with appropriate supervision thereby making this service more readily available to the public. The amendments related to renaming veterinary technicians is necessary to eliminate any confusion caused by having different terms used in the act and the Board's regulations. The amendments related to discipline are also necessary to eliminate any confusion caused by having contradictions between the statute and regulations.

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

There are no known 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.)

The general public will benefit by having better access to persons allowed to implant electronic identification in animals. The benefits will be seen in decreased waiting time for the service. In addition, the general public will benefit economically because veterinarians may charge less for services performed by a technician or employee than for services performed by the veterinarian. All licensees and the general public benefit by having the statute and regulations be consistent.

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(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 cannot identify any group that 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 licensees and noncertified employees will be required to comply with the 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 final rulemaking was promulgated in accordance with the Regulatory Review Act and regulations of the Independent Regulatory Review Commission. The Board considered all comments made in drafting the final rulemaking.

(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.

Licensees will not experience any costs related to complying with the rulemaking.

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(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 costs or saving to local governments associated with the 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.

There are no costs or savings to state governments associated with the regulation.

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(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 Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:	0	0	0	0	0	0
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:	0	0	0	0	0	0
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

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

Any savings in broadening the scope of practice of certified veterinary technicians and noncertified employees are savings are to the general public and are therefore not applicable to the charge in question 20.

Regulatory Analysis Form

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

	FY 99-00	FY 00-01	FY 01-02	FY 02-03
Program	FY -3	FY -2	FY -1	Current FY
Veterinary Board	197,487.51	348,088.02	341,658.88	300,000.00

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

There are benefits of lower cost and greater availability of the service for the general public. There are no adverse cost effects.

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

No nonregulatory alternatives were considered.

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

No alternative regulatory schemes were considered.

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 provisions of the proposed rulemaking are more stringent than federal standards.

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

A review of the laws and regulations of nearby states indicates that only New York addresses the insertion of electronic identification, which is considered the practice of veterinary medicine. New York law provides that an employee of a not-for-profit pound, shelter, or society for the prevention of cruelty to animals may insert a microchip to identify a dog or cat held by the organization for adoption. N.Y. [Education] LAW §§ 6701, 6705 (McKinney 2003).

(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 a final rulemaking with proposed rulemaking omitted of the Pennsylvania Department of Agriculture related to lifetime dog licenses. The Department of Agriculture's rulemaking references the Veterinary Medicine Practice Act and Veterinary Board's regulations relating to implanting electronic identification.

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

No public hearings or informational meeting will be scheduled. The Board's meeting schedule is available from the Board's home page on the Department of State website, www.dos.state.pa.us/bpoa.

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.

The regulation will not change 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 not identified any particular affected groups.

(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 publication of the final-form rulemaking.

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

The Board continuously reviews its regulations. A schedule of Board meeting dates is available from the Board Administrator at 717-783-7134 and on the Department of State's website at www.dos.state.pa.us/bpoa.

(2) The location of the covered structure in an area scheduled for underground flushing operations.

(3) The location of the covered structure in an area having a high risk of subsidence damage.

(4) The covered structure having a history of subsidence damage.

(d) An insurance policy [will not be] is effective [until] when a complete application is received by the Board or its agents and the premium [has been] associated with that application is received [and the maximum term for all insurance policies will be 1 year, unless otherwise specified by a Board resolution and disclosed to the policyholders] by the Board or its agents.

[Pa.B. Doc. No. 04-369. Filed for public inspection March 5, 2004, 9:00 a.m.]

STATE BOARD OF VETERINARY MEDICINE

[49 PA. CODE CH. 31]

Implanting Electronic Identification; Veterinary Technician

The State Board of Veterinary Medicine (Board) proposes to amend § 31.1, 31.31–31.33, 31.35 and 31.38–31.41 to read as set forth in Annex A. The proposed rulemaking would permit a certified veterinary technician to implant electronic identification under indirect veterinary supervision and would permit a noncertified employee to implant electronic identification under direct veterinary supervision.

The Board also proposes to change the term “certified animal health technician” in existing regulations to “certified veterinary technician,” consistent with the act of December 9, 2002 (P. L. 1370, No. 167) (Act 167).

Effective Date

The proposed rulemaking would become effective upon final-form publication in the *Pennsylvania Bulletin*.

Statutory Authority

Section 3(10)(viii) of the Veterinary Medicine Practice Act (act) (63 P. S. § 485.3(10)(viii)) provides that the practice of veterinary medicine includes the practice by any person who “implants electronic identification, as determined by the Board.” Section 5(2) of the act (63 P. S. 485.5(2)) authorizes 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.

Background and Need for the Proposed Rulemaking

The Board currently does not have a regulation to address section 3(10)(viii) of the act, which was added when the act was amended by Act 167, effective on February 9, 2003. The proposed rulemaking is necessary to allow certified veterinary technicians and noncertified employees, under either indirect or direct supervision, to implant electronic identification.

Act 167 amended the act to change the term “animal health technician” to “veterinary technician,” which is

consistent with Nationwide terminology. Consistent with § 31.1 (relating to definitions) and National practice, the Board will continue to refer to these licensed individuals as certified veterinary technicians rather than veterinary technicians.

Description of Proposed Rulemaking

The Board proposes to amend § 31.31 (relating to scope of practice) to authorize certified veterinary technicians and noncertified employees to implant electronic identification under appropriate supervision. In determining the level of supervision necessary to ensure the safety and welfare of animals, the Board considered the large gauge needle necessary to implant electronic identification and how the use of a large gauge needle compared to the scope of practice of certified veterinary technicians and noncertified employees already set forth in § 31.31. The Board determined that implanting electronic identification might raise the same types of risks associated with intravenous catheterization, which is done with a smaller gauge needle, but directly into a vein. Therefore, the Board determined, consistent with the scope of practice of certified veterinary technicians and noncertified employees already in § 31.31, that certified veterinary technicians should be permitted to implant electronic identification under indirect veterinary supervision and noncertified employees should be permitted to implant electronic identification under direct veterinary supervision. Direct and indirect veterinary supervision are defined in § 31.1.

Direct veterinary supervision means that a veterinarian has given either oral or written instructions, is on the premises and is easily and quickly available to assist. Indirect veterinary supervision means the veterinarian is not on the premises but is acquainted with the keeping and care of the animal by virtue of an examination of the animal and has given written or oral instructions for treatment of the animal. This will allow a noncertified employee, who generally has less formal education in veterinary technology, to implant electronic identification when a veterinarian is on the premises and easily and quickly available to assist. A certified veterinary technician, who has graduated from an approved school of veterinary technology, has passed a National licensing examination and has obtained licensure, need only have orders from the veterinarian who has examined the animal to implant electronic identification.

This proposed rulemaking also amends all sections of the Board's regulations that address certified animal health technicians to change the nomenclature of these licensees to certified veterinary technician, consistent with Act 167.

Finally, this proposed rulemaking would conform the Board's regulations to the amended act by including as grounds for disciplining a veterinary technician the conviction of a misdemeanor related to the profession or a crime of moral turpitude. See section 21(15) of the act (63 P. S. § 485.21(15)).

Fiscal Impact and Paperwork Requirements

The proposed rulemaking should not have financial impact on licensees, the Board or any other State entity. The proposed rulemaking will have a positive financial impact on those members of the public who wish to have their animals implanted with electronic identification by expanding to paraprofessional personnel the ability to undertake the practice of implanting electronic identification.

The Board has already amended its licensing and biennial renewal applications to reflect the change in nomenclature. There are no additional paperwork requirements associated with the proposed rulemaking.

Sunset Date

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on February 24, 2004, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

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

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

Fiscal Note: 16A-5715. 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

§ 31.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Certified [animal health] veterinary technician—
[An animal health] A veterinary technician certified by the Board.

* * * * *

Direct veterinary supervision—A veterinarian has given either oral or written instructions to the certified [animal health] veterinary technician or noncertified

[employee] employee, is on the premises and is easily and quickly available to assist the certified [animal health] veterinary technician or the noncertified [employee] employee.

* * * * *

Indirect veterinary supervision—A veterinarian is not on the premises but is acquainted with the keeping and care of the animal by virtue of an examination of the animal or medically appropriate and timely visits to the premises where the animal is kept, and has given written or oral instructions to the certified [animal health] veterinary technician for treatment of the animal patient.

* * * * *

Noncertified [employee] employee—An [employee] employee of a veterinarian who does not hold certification as [an animal health] a veterinary technician and whom the veterinarian deems competent to administer medication or render auxiliary or supporting assistance under direct veterinary supervision or immediate veterinary supervision.

* * * * *

[ANIMAL HEALTH] VETERINARY TECHNICIANS AND NONCERTIFIED EMPLOYEES

§ 31.31. Scope of practice.

(a) **Certified [animal health] veterinary technicians.** A certified [animal health] veterinary technician may perform the duties enumerated in this subsection under direct veterinary supervision or indirect veterinary supervision as indicated. While some of the enumerated duties may be applicable primarily to small animal practices, the intended scope of this subsection is both large and small animal practices. This subsection does not prohibit the performance by a certified [animal health] veterinary technician of a service which is not listed in this subsection if the service is within the certified [animal health] veterinary technician's skills, forms a usual component of the veterinarian's scope of practice, and is requested by the supervising veterinarian. The veterinarian bears ultimate responsibility for assuring that the certified [animal health] veterinary technician to whom a duty is assigned is competent to perform it.

(1) A certified [animal health] veterinary technician may do the following only under direct veterinary supervision:

* * * * *

(2) Except as provided in paragraph (3), a certified [animal health] veterinary technician may do the following under indirect veterinary supervision:

* * * * *

(x) **Implant an electronic identification device.**

(3) If an animal is under anesthesia, a certified [animal health] veterinary technician may perform the services listed in paragraph (2) only under direct veterinary supervision.

(4) Emergency treatment by certified [animal health] veterinary technicians is permitted without veterinary supervision when an animal has been placed

in a life-threatening condition and immediate treatment is necessary to sustain the animal's life. The certified [animal health] veterinary technician shall immediately take steps to secure the direct supervision of a veterinarian. Emergency treatment may only consist of those duties enumerated under paragraphs (1) and (2).

(b) *Noncertified [employees] employees.* Noncertified [employees] employees may perform the duties enumerated in this subsection under direct veterinary supervision or immediate veterinary supervision, as indicated. While some of the enumerated duties may be applicable primarily to small animal practices, the intended scope of this subsection is both large and small animal practices. This subsection does not prohibit a noncertified [employee] employee from administering medication or rendering auxiliary or other supporting assistance which is not listed in this subsection if the service is within the noncertified [employee's] employee's skills and is requested by the supervising veterinarian. The veterinarian bears ultimate responsibility for assuring that the noncertified [employee] employee to whom a duty is assigned is competent to perform it.

(1) A noncertified [employee] employee may do the following under direct veterinary supervision:

* * * * *

(xi) Implant an electronic identification device.

(2) A noncertified [employee] employee may do the following under immediate veterinary supervision:

* * * * *

(c) *Prohibited acts.* Neither certified [animal health] veterinary technicians nor noncertified [employees] employees may do the following:

* * * * *

§ 31.32. Certification.

(a) As a prerequisite to original certification as [an animal health] a veterinary technician, an applicant shall submit the following documentation to the Board:

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

* * * * *

(3) Evidence of satisfactory completion of an approved program for the training and education of [animal] veterinary 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] a veterinary technician, if any, reporting the outcome of disciplinary actions taken against the applicant in that state.

* * * * *

§ 31.33. Applications.

* * * * *

(b) An applicant for certification as [an animal health] a veterinary 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/hpoa/vetbd/mainpage.htm.

§ 31.35. Examinations.

(a) The examination required for certification as [an animal health] a veterinary technician is the Veterinary Technician National Examination (VTNE).

* * * * *

§ 31.38. Code of ethics for certified [animal health] veterinary technicians.

(a) The certificate of a certified [animal health] veterinary technician will only be valid for use when the holder is in the employ of or under the supervision of a veterinarian licensed in this Commonwealth.

(b) The holder of a certificate may not accept a direct fee for services rendered as a certified [animal health] veterinary technician from other than the [certificateholders'] certificateholder's employer.

(c) A certified [animal health] veterinary technician may not compromise the confidentiality of the doctor-client relationship.

(d) A certified [animal health] veterinary technician who deals or communicates directly with a client shall explain to the client that the certified [animal health] veterinary technician is not a veterinarian.

(e) A certified [animal health] veterinary technician shall be responsible to the client and to the veterinarian in the following respects:

* * * * *

(f) A certified [animal health] veterinary technician may not undertake an assignment that the certificateholder is not capable of performing.

§ 31.39. Grounds for disciplinary proceedings.

(a) The Board may suspend or revoke certification of [an animal health] a veterinary technician or otherwise discipline a certified [animal health] veterinary 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:

* * * * *

(4) Revocation [or], suspension or other discipline by another state of the certification of the person as an animal health technician or a veterinary technician on grounds similar to those which in this Commonwealth allow disciplinary proceedings, in which case the revocation [or], suspension or other discipline shall be conclusive evidence.

* * * * *

(6) Conviction of a felony, a misdemeanor related to the profession or a crime of moral turpitude in the courts of this Commonwealth or of a state, territory or country [which, if committed in this Commonwealth, would be deemed a felony] and suspension [or], revocation [of certification] or other discipline is in the best interest of the public health and the general safety and welfare of the public. A record of conviction in a court of competent jurisdiction shall be

sufficient evidence for disciplinary action to be taken as may be deemed proper by the Board.

* * * * *

(b) Certified [animal health] veterinary technicians and noncertified [employees] employees who deviate from the permitted scope of practice as set forth in § 31.31 (relating to scope of practice) will be subject to prosecution and the levying of a civil penalty by the Board under section 28(c) of the act (63 P.S. § 485.28(c)). Veterinarians who permit, order or direct certified [animal health] veterinary technicians or noncertified [employees] employees to perform duties which are not authorized by § 31.31 will be subject to disciplinary action by the Board under section 21 of the act (63 P.S. § 485.21).

* * * * *

§ 31.40. Continuing education provider approval.

(a) The Board will approve without application to the Board and the fee required under § 31.41 (relating to schedule of fees), continuing education courses offered by the following providers as long as the programs are specifically designed to increase the skills, knowledge and competence of certified [animal health] veterinary technicians:

* * * * *

(c) Organizations approved under subsections (a) and (b) shall provide certification of attendance to the certified [animal health] veterinary technician which includes

the name of the sponsor, the name of the licensee, the title of the course, the date of the course, the number of credit hours and the signature of the person authenticating attendance. Organizations approved under subsection (b) shall also provide the Pennsylvania approval number.

(d) Instructors of continuing education programs may include:

* * * * *

(2) Licensed doctors of veterinary medicine in this Commonwealth or in another state who are not faculty members of those schools covered under paragraph (1) if, by virtue of their professional activities and achievements in a particular field, the doctors are recognized by the Board as qualified to speak on subjects of pertinent value to [animal health] veterinary technicians.

* * * * *

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:

* * * * *

[Animal health] Veterinary technicians:

* * * * *

[Pa.B. Doc. No. 04-370. Filed for public inspection March 5, 2004, 9:00 a.m.]

Comments of the Independent Regulatory Review Commission

on

State Board of Veterinary Medicine Regulation No. 16A-5715

Implanting Electronic Identification; Veterinary Technician

May 5, 2004

We submit for your consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The State Board of Veterinary Medicine must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on April 5, 2004. If the final-form regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

1. Section 31.31. Scope of practice. – Reasonableness.

Subsection (b)(1)(xi) authorizes a noncertified employee of a veterinarian to “implant an electronic identification device” under direct veterinary supervision. Commentators have objected to the use of noncertified employees to implant electronic identification devices. Specifically, they state that the implantation of these devices is an invasive procedure that should be done by a trained and certified person to ensure that the device is inserted properly and the accompanying paperwork is completed and filed accurately.

The Board should further explain the basis for allowing noncertified employees to implant electronic identification devices.

2. Section 31.39. Grounds for disciplinary proceedings. – Consistency with statute.

Subsection (a)(6) deletes the phrase “which, if committed in this Commonwealth, would be deemed a felony.” However, the Veterinary Practice Act (63 P.S. Section 485.21(15)) contains this language. The Board should retain this language in the final-form regulation, or explain why it is unnecessary to do so.

Regulation 16A-5715

State Board of Veterinary Medicine

Proposal: Regulation 16A-5715 amends 49 Pennsylvania Code Chapter 31, regulations of the State Board of Veterinary Medicine. The language of the proposed regulation would implement Act 167 of 2002, enactments of the General Assembly with respect to the implantation of electronic identification devices in animals and grounds for disciplinary action for licensees and certificate holders. In addition, the amendment deletes the term "certified animal health technician" in the regulation, in favor of the term "certified veterinary technician." The term "certified veterinary technician" is also found in Act 167 of 2002.

The proposed regulation was published in the Pennsylvania Bulletin on March 6, 2004.

Analysis: The Veterinary Practice Act provides that the State Board of Veterinary Medicine adopt reasonable rules and regulations governing the practice of veterinary medicine. 63 P.S. 485.5(1). The term "practice of veterinary medicine" was amended in Act 167 of 2002 to include implantation of electronic identification, as determined by the board, upon any animal. 63 P.S. 485.3(10)(viii).

N.B.: In practical terms, an electronic identification device refers to a rice-sized computer chip which is implanted under the skin of an animal. In cats and dogs, it is inserted between the shoulder blades. If a cat or a dog, for example, is lost, the animal can be scanned and identifying information will appear.

The proposed regulation specifies that a certified veterinary technician may implant the device under "indirect veterinary supervision." However, if the animal is under anesthesia, the certified veterinary technician may only implant the device under "direct veterinary supervision."

The terms "indirect veterinary supervision" and "direct veterinary supervision" are defined in 49 Pa. Code 13.1 as follows:

"Indirect veterinary supervision" means "A veterinarian is not on the premises but is acquainted with the keeping and care of the animal by virtue of examination of the animal or medically appropriate and timely visits to the premises where the animal is kept, and has given written or oral instructions to the certified animal health technician for treatment of the animal patient."

"Direct veterinary supervision" means "A veterinarian has given either oral or written instructions to the certified veterinary technician or noncertified employee, is on the premises and is easily and quickly available to assist the certified veterinary technician or the noncertified employee."

A noncertified employee may implant the device under "direct veterinary supervision."

In addition to the language relating to implantation of the electronic identification device, the proposed regulation also provides language regarding the discipline of certified veterinary technicians so that the regulation will conform to Act 167 of 2002.

Specifically, Act 167 of 2002 provided that the board shall suspend or revoke any license or certificate or otherwise discipline an applicant, licensee, or certificate holder who is found guilty of a felony or a "misdemeanor crime related to the profession or a crime of moral turpitude" committed in Pennsylvania or any foreign jurisdiction. 63 P.S. 485.21(15).

The proposed regulation states that the board may suspend a certified veterinary technician who has been found guilty of a "misdemeanor related to the profession or a crime of moral turpitude..."

The proposed regulation also changes the term "certified animal health technician" to "certified veterinary technician," in accordance with Act 167 of 2002.

Recommendations: It is recommended that the Professional Licensure Committee take no formal action until final form regulations are promulgated. However the committee submits the following comment:

1. The committee notes that there is a technical drafting problem with the proposed regulation. By way of example, under Section 31.1 Definitions, the committee notes that the definition of "Direct veterinary supervision" does not need to be changed as the regulation in its current form uses the term "certified veterinary technician." The same is true for Section 31.38 and other sections throughout the proposed regulation. In the same vein, the term "noncertified employees" in Section 31.31(b)(3) has not been changed in the proposed regulation to "noncertified employees."

SHEILA MILLER, MEMBER
HOUSE OF REPRESENTATIVES
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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
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Original: 2391

March 10, 2004

Mr. Robert E. Nyce
Executive Director
Independent Regulatory Review Commission
333 Market Street
14th Floor
Harrisburg, PA 17101

Dear Mr. Nyce:

In the March 6, 2004 Pennsylvania Bulletin, the State Board of Veterinary Medicine promulgated proposed regulations regarding *Implanting Electronic Identification; Veterinary Technician*. In light of the discussion about national identification under federal rules, I am wondering what, if any impact, these regulations could have on Pennsylvania's livestock industry as it moves forward in the stages of voluntary compliance if electronic identification is selected by the producer.

While I can appreciate these regulations were most likely written with small animals in mind, I am not certain if they might inadvertently limit farmers and others in the animal agriculture field from applying this new technology without the involvement of a veterinarian or veterinary technician. I encourage you to take a look at the regulations with national identification of livestock in mind, and limit any negative impact on our agricultural industry.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Sheila Miller'.
SHEILA MILLER
State Representative
129th Legislative District

SM/db
Encl.

RECEIVED
MARCH 17 PM 2:05
REG. COMMISSION

PENNSYLVANIA FEDERATION OF DOG CLUBS, Inc.

A Statewide Organization for the Benefit of
Dogs and Dog Owners

Original 2391

March 20, 2004

Mr. Robert E. Nyce, Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor, Harrisburg, Pa. 17101

Re: Proposed Rulemaking, State Board of Veterinary Medicine
Implanting Electronic Identification: Veterinary Technician

Dear Mr. Nyce,

Please find enclosed a letter that we wrote to Teresa Lazo-Miller, Counsel, State Board of Veterinary Medicine on July 29, 2003 objecting to the use of any noncertified employees in a veterinarian's office implanting electronic identification, known as a "microchip" into dogs.

We believe that this letter states clearly the reasons that we have to be concerned about the use of unqualified people with no formal training inserting a large needle into our dogs. We have a microchip put into our dogs in order to identify them should they get lost. If the chip is registered with a national tracking organization, then the owner could be located from anywhere in the country. If the chip is used also for the purpose of obtaining a "lifetime" license from the Pa. State Bureau of Dog Law Enforcement, then the owner can also be located in our state and the owner is also in compliance with our dog licensing laws. In effect, we do all of this to protect our beloved pets. They should NOT be subjected to just any person who happens to be working in the veterinarian's office.

In addition to the physical insertion of the large needle and the microchip, the person doing that must also properly fill out the paperwork needed both for the national registry and for the State Lifetime License and give the correct information to the dog's owner. If it is not done correctly, then the whole procedure is worthless.

The Rules and Regulations for Act 225, The Dog Law, regarding the microchip states: (E) (1) "The dog owner shall have a microchip implanted in the dog by a licensed veterinarian or by a licensed kennel owner. The new Veterinary Practice Act states that; the "Practice of veterinary medicine" includes the practice by any person who (i) diagnose, treats, corrects, changes, relieves or prevents animal disease etc, including the prescription or administration of any drug, medicine, biologic, apparatus, etc. Further under (v) "offers, undertakes, or holds himself out as being able to diagnose, treat, operate, vaccinate etc. Further under (viii) " implants electronic identification, as determined by the board, upon any animal".

It would seem the these two statements somewhat contradict each other when one allows a state licensed kennel owner to implant a microchip and the other one does not address that possibility. We do not know if that problem has been reconciled. We, certainly, never considered that the phrase "as determined by the board" would mean what the proposed rule would allow a non-certified employee to do it if the veterinarian is (somewhere) on the premises.

When we take our dogs to the veterinarian, we expect that our pets will receive the finest

Dotsie Keith, Legislative Chairman • Box 67, Furlong, PA 18925 • (215) 794-7173

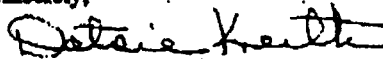
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INDEPENDENT REGULATORY REVIEW COMMISSION

care. As for the "Fiscal Impact", we are paying for the services of the veterinarian and are charged the office visit fee, regardless of the person who attends our pets. We will not be charged any less because a non-certified employee does the implanting, though that is implied in the Fiscal Impact statement. As noted, we have agreed to allow a certified veterinary technician to do this. Maybe the best comparison is to having a registered nurse give us a needle or allowing the cleaning person to do it too, if the doctor has instructed them and is somewhere in the hospital. I do not believe that anyone would find that an acceptable medical practice.

If the veterinarians in our state would set up low cost clinics to implant microchips in order to have more dogs protected, then that would be wonderful! However, we have found that they do not even approve of communities holding low cost Rabies clinics that would help protect not only the pets but, even more importantly, the citizens of Pennsylvania from this deadly disease.

Please keep us informed as to the outcome of these proposed rules and regulations. They will affect all of the owners of dogs in our state. Thank you for giving us the opportunity to be heard.

Sincerely,



Dotsie Keith, Legislative Chairman
Pa. Federation of Dog Clubs, Inc.

cc: Mr. Robert Kline, State Board of Veterinary Medicine
Senator Robert M. Tomlinson, Chairman, Consumer Protection & Professional Licensure
Committee
Representative Mario J. Civera, Jr., Chairman, House Professional Licensure Committee

CDL-1

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

2391

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
form and legality.
Executive or Independent
Agencies.

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Veterinary Medicine
(AGENCY)

BY: Tanya C. Gable

DOCUMENT/FISCAL NOTE NO. 16A-5715

DATE OF ADOPTION: _____

8.18.04

DATE OF APPROVAL

BY: Brian V. Harpster, VMD
Brian V. Harpster, V.M.D.

DATE OF APPROVAL

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

TITLE: Chairperson
(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.

FINAL RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF VETERINARY MEDICINE
49 PA. CODE SECTIONS 31.1, 31.31 - 31.33, 31.35 AND 31.38 - 31.41
IMPLANTING ELECTRONIC IDENTIFICATION; CERTIFIED VETERINARY TECHNICIANS

The State Board of Veterinary Medicine (Board) adopts amendments to §§ 31.1, 31.31-31.33, 31.35 and 31.38-31.41 to read as set forth in Annex A. The regulation will permit a certified veterinary technician to implant electronic identification under indirect veterinary supervision and will permit a noncertified employee to implant electronic identification under direct veterinary supervision.

The Board also amends references in its regulations to certified animal health technicians by replacing this term with the new statutory term, certified veterinary technician, consistent with Act 167 of 2002. The rulemaking changes the term employee to the current term employee.

Notice of Proposed Rulemaking was published at 34 Pa.B. 1331 (March 6, 2004). Publication was followed by a 30-day public comment period. The Board received comments from the Pennsylvania Federation of Dog Clubs, Inc., and the Honorable Sheila Miller, State Representative. The House Professional Licensure Committee (HPLC) submitted one comment to the proposed rulemaking. The Senate Consumer Protection and Professional Licensure Committee made no comments. The Independent Regulatory Review Commission (IRRC) submitted two comments to the proposed rulemaking on May 5, 2004. The Board discussed the comments at its June 8, 2004, meeting.

Summary of Comments and Responses to Proposed Rulemaking

On March 10, 2004, the Honorable Sheila Miller, State Representative, addressed comments to IRRC that were forwarded to the Board. Representative Miller questioned whether the regulations would inadvertently limit farmers and others in the animal agriculture field from applying new technologies in electronic identification to their animals. The Board's regulation does not restrict farmers from using electronic identification. The restriction on who may implant electronic identification is contained in the Veterinary Medicine Practice Act (act) (63 P.S. §§ 485.1 – 485.33) which defines the implanting of electronic identification as part of the practice of veterinary medicine. However, the act also provides that any person or the person's regular employee or agent may practice veterinary medicine on the person's own animals. This exemption would allow a farmer and a farmer's regular employees to implant electronic identification in animals owned by the farmer. In addition, if a farmer is not the owner, such as in the case of corporate ownership of farm animals, the farmer may still implant electronic identification in the animals as the agent of the corporate owner. Therefore, neither the act nor the Board's regulations will have any impact on a farmer's ability to use electronic identification.

On March 20, 2004, the Pennsylvania Federation of Dog Clubs, Inc. (PFDC) sent comments to IRRC, which were forwarded to the Board. PFDC expressed concern with the proposed provision that authorized noncertified employees of a veterinarian to implant electronic identification under

direct veterinary supervision. An individual submitted comments to IRRC in support of PFDC's position on March 25, 2004, which were also forwarded to the Board.

The Board's current regulations authorize noncertified employees to perform ear flushing; perform dental prophylaxis; perform diagnostic imaging, perform intravenous catheterization; administer immunizations which are not required by law to be administered in the presence of a licensed veterinarian; administer and apply medications and treatment by routes, including intramuscular, subcutaneous and previously catheterized vein; apply bandages; perform cardiac monitoring and perform appropriate procedures to control bleeding under direct veterinary supervision. (49 Pa. Code § 31.31(b)(1)). The Board found that implanting electronic identification raises similar concerns in the areas of technique and sanitation as procedures that noncertified employees are already authorized to perform. Because implanting electronic identification does not require a quantitatively higher level of technical skill or a qualitatively different understanding of proper sanitation, the Board concluded that authorizing noncertified employees to implant electronic identification under direct veterinary supervision was consistent with the duties these employees are already authorized to perform. Under § 31.31(b), a veterinarian may only allow a noncertified employee to perform a procedure if it is within the noncertified employees' skills. Moreover, under § 31.31(b), the veterinarian bears ultimate responsibility for assuring that the noncertified employee to whom a duty is assigned is competent to perform the duty, and the veterinarian may be disciplined under section 21(22) of the act (63 P.S. § 485.21(22)) if the veterinarian allows an unqualified employee to provide services. Thus, the public is protected from unqualified staff of a veterinarian performing procedures, including implanting electronic identification.

PFDC also commented that regulations promulgated by the Department of Agriculture in early 2003 were inconsistent with the act. PDFC is correct; the Board contacted the Department of Agriculture after it promulgated these regulations and the Department is amending its regulations to conform to the act. The Department's regulations, to the extent that they conflict with the act, have no legal effect.

The HPLC noted a technical drafting problem in that some of the sections being amended by this rulemaking were previously amended to reflect the new terminology, "certified veterinary technician." The Board consulted with the Pennsylvania Code and Bulletin staff, which advised that it would automatically amend all sections of the Board's regulations to reflect the now-common usage of the term employee. The staff also advised the Board that when the rulemaking is published as final, only the final-form language will appear in the final publication, so it is unnecessary to strike through any sections where "animal health" had already been changed to "veterinary."

IRRC made two comments. First, in light of the comments submitted by PFDC, IRRC asked the Board to further explain the basis for allowing noncertified employees to implant electronic identification. The Board believes it has further explained its reasoning above. Second, IRRC noted that the Board had erroneously transcribed the amended statutory language related to grounds for

disciplinary proceedings when it amended § 31.39(a)(6) to conform the disciplinary provisions for technicians to the statutory disciplinary provisions for veterinarians. The Board has amended § 31.39(a)(6) to mirror the language in section 21.(15) of the act (63 P.S. § 485.21(15)).

Statutory Authority

Section 3(10)(viii) of the Veterinary Medicine Practice Act (act) (63 P.S. § 485.3(10)(viii)) provides that the practice of veterinary medicine includes the practice by any person who “implants electronic identification, as determined by the Board.” Section 5(2) of the act (63 P.S. § 485.5(2)) authorizes 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 and Paperwork Requirements

The Board had identified no fiscal impact or paperwork requirements to state or local governments associated with the final rulemaking.

Compliance with Executive Order 1996-1

The Board reviewed this rulemaking and considered its purpose and likely impact on the public and the regulated population under the directives of Executive Order 1996-1. This final-form rulemaking addresses a compelling public interest and otherwise complies with Executive Order 1996-1.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 24, 2004, the Board submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 1331, to IRRC and the Chairpersons of the House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee(SCP/PLC) for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on _____, the final-form rulemaking was approved by the HPLC. On _____, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____, and approved the final-form rulemaking.

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 act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations promulgated under those sections at 1 Pa. Code §§ 7.1 and 7.2.
- (2) That a public comment period was provided as required by law and all comments were considered.
- (3) That this final rulemaking of the State Board of Veterinary Medicine is necessary and appropriate for the administration of the Veterinary Medicine Practice Act.
- (4) That the amendments to this final rulemaking do not enlarge the original purpose of the proposed regulation published at 34 Pa. B. 1331 (March 6, 2004).

Order

The Board therefore ORDERS that:

- (A) The regulations of the Board, 49 Pa.Code Chapter 31, are amended to read as set forth in Annex A.
- (B) The Board shall submit this Order and a copy of Annex A to the Office of Attorney

General and the Office of General Counsel for approval as required by law.

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

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

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

§ 31.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Certified [animal health] veterinary technician—[An animal health] A veterinary technician certified by the Board.

Direct veterinary supervision—A veterinarian has given either oral or written instructions to the certified [animal health] veterinary technician or noncertified [employee] employee, is on the premises and is easily and quickly available to assist the certified [animal health] veterinary technician or the noncertified [employee] employee.

Indirect veterinary supervision—A veterinarian is not on the premises but is acquainted with the keeping and care of the animal by virtue of an examination of the animal or medically appropriate and timely visits to the premises where the animal is kept, and has given written or

oral instructions to the certified [animal health] veterinary technician for treatment of the animal patient.

Noncertified [employee] employee – An [employee] employee of a veterinarian who does not hold certification as [an animal health] veterinary technician and whom the veterinarian deems competent to administer medication or render auxiliary or supporting assistance under direct veterinary supervision or immediate veterinary supervision.

[ANIMAL HEALTH] VETERINARY TECHNICIANS AND NONCERTIFIED EMPLOYEES

§ 31.31. Scope of practice.

- (a) *Certified [animal health] veterinary technicians.* A certified [animal health] veterinary technician may perform the duties enumerated in this subsection under direct veterinary supervision or indirect veterinary supervision as indicated. While some of the enumerated duties may be applicable primarily to small animal practices, the intended scope of this subsection is both large and small animal practices. This subsection does not prohibit the performance by a certified [animal health] veterinary technician of a service which is not listed in this subsection if the service is within the certified [animal health] veterinary technician's skills, forms a usual component of the veterinarian's scope of practice, and is requested by the supervising veterinarian. The veterinarian bears ultimate responsibility for assuring that the certified [animal health] veterinary technician to whom a duty is assigned is competent to perform it.

- (1) A certified [animal health] veterinary technician may do the following only under direct veterinary supervision: *

- (2) Except as provided in paragraph (3), a certified [animal health] veterinary technician may do the following under indirect veterinary supervision:

- (x) Implant an electronic identification device.

- (3) If an animal is under anesthesia, a certified [animal health] veterinary technician may perform the services listed in paragraph (2) only under direct veterinary supervision.
- (4) Emergency treatment by certified [animal health] veterinary technicians is permitted without veterinary supervision when an animal has been placed in a life-threatening condition and immediate treatment is necessary to sustain the animal's life. The certified [animal health] veterinary technician shall immediately take steps to secure the direct supervision of a veterinarian. Emergency treatment may only consist of those duties enumerated under paragraphs (1) and (2).
- (b) *Noncertified [employees] employees.* Noncertified [employees] employees may perform the duties enumerated in this subsection under direct veterinary supervision or immediate veterinary supervision, as indicated. While some of the enumerated duties may be applicable primarily to small animal practices, the intended scope of this subsection is both large and small animal practices. This subsection does not

prohibit a noncertified [employee] employee from administering medication or rendering auxiliary or other supporting assistance which is not listed in this subsection if the service is within the noncertified [employee's] employee's skills and is requested by the supervising veterinarian. The veterinarian bears ultimate responsibility for assuring that the noncertified [employee] employee to whom a duty is assigned is competent to perform it.

- (1) A noncertified [employee] employee may do the following under direct veterinary supervision:

- (xi) Implant an electronic identification device.

- (2) A noncertified [employee] employee may do the following under immediate veterinary supervision:

- (c) *Prohibited acts.* Neither certified [animal health] veterinary technicians nor noncertified [employees] employees may do the following:

§ 31.32. Certification.

- (a) As a prerequisite to original certification as [an animal health] a veterinary technician, an applicant shall submit the following documentation to the Board:

- (1) A completed and signed application for [animal health] veterinary technician certification.

- (3) Evidence of satisfactory completion of an approved program for the training and education of [animal] veterinary 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] a veterinary technician, if any, reporting the outcome of disciplinary actions taken against the applicant in that state.

§ 31.33. Applications.

- (b) An applicant for certification as [an animal health] a veterinary 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.

§ 31.35. Examinations.

- (a) The examination required for certification as [an animal health] a veterinary technician is the Veterinary Technician National Examination (VTNE).

§ 31.38. Code of ethics for certified [animal health] veterinary technicians.

- (a) The certificate of a certified [animal health] veterinary technician will only be valid for use when the holder is in the employ of or under the supervision of a veterinarian licensed in this Commonwealth.
- (b) The holder of a certificate may not accept a direct fee for services rendered as a certified [animal health] veterinary technician from other than the [certificateholders'] certificateholder's employer.
- (c) A certified [animal health] veterinary technician may not compromise the confidentiality of the doctor-client relationship.
- (d) A certified [animal health] veterinary technician who deals or communicates directly with a client shall explain to the client that the certified [animal health] veterinary technician is not a veterinarian.
- (e) A certified [animal health] veterinary technician shall be responsible to the client and to the veterinarian in the following respects:

- (f) A certified [animal health] veterinary technician may not undertake an assignment that the certificateholder is not capable of performing.

§ 31.39. Grounds for disciplinary proceedings.

- (a) The Board may suspend or revoke certification of [an animal health] a veterinary technician or otherwise discipline a certified [animal health] veterinary 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:

- (4) Revocation [or], suspension or other discipline by another state of the certification of the person as an animal health technician or a veterinary technician on grounds similar to those which in this Commonwealth allow disciplinary proceedings, in which case the revocation [or], suspension or other discipline shall be conclusive evidence.

- (6) Conviction of a felony, a misdemeanor related to the profession or a crime of moral turpitude in the courts of this Commonwealth or of a state, territory or country {which, if committed in this Commonwealth, would be deemed a felony}, MISDEMEANOR RELATED TO THE PROFESSION OR CRIME OF MORAL TURPITUDE and suspension [or], revocation [of certification] or other discipline is in the best interest of the public health and the general safety and welfare of the public. A record of conviction in a court of competent jurisdiction shall be sufficient evidence for disciplinary action to be taken as may be deemed proper by the Board.

- (b) Certified [animal health] veterinary technicians and noncertified [employees] employees who deviate from the permitted scope of practice as set forth in § 31.31 (relating to scope of practice) will be subject to prosecution and the levying of a civil penalty by the Board under section 28(c) of the act (63 P. S. § 485.28(c)). Veterinarians who permit, order or direct certified [animal health] veterinary technicians or noncertified [employees] employees to perform duties which are not authorized by § 31.31 will be subject to disciplinary action by the Board under section 21 of the act (63 P. S. § 485.21).

§ 31.40. Continuing education provider approval.

- (a) The Board will approve without application to the Board and the fee required under § 31.41 (relating to schedule of fees), continuing education courses offered by the following providers as long as the programs are specifically designed to increase the skills, knowledge and competence of certified [animal health] veterinary technicians:

- (c) Organizations approved under subsections (a) and (b) shall provide certification of attendance to the certified [animal health] veterinary technician which includes the name of the sponsor, the name of the licensee, the title of the course, the date of the course, the number of credit hours and the signature of the person authenticating attendance. Organizations approved under subsection (b) shall also provide the Pennsylvania approval number.

- (d) Instructors of continuing education programs may include:

- (2) Licensed doctors of veterinary medicine in this Commonwealth or in another state who are not faculty members of those schools covered under paragraph (1) if, by virtue of their professional activities and achievements in a particular field, the doctors are recognized by the Board as qualified to speak on subjects of pertinent value to [animal health] veterinary technicians.

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:

[Animal health] Veterinary technicians:



**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

October 1, 2004

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-5715: Implanting Electronic Identification; Certified Veterinary Technicians

Dear Chairman McGinley:

Enclosed is a copy of a final rulemaking package of the State Board of Veterinary Medicine pertaining to implanting electronic identification and certified veterinary technicians.

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: Linda C. Barrett, Chief Counsel
Department of State
Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, 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-5715

SUBJECT: State Board of Veterinary Medicine - Implanting Electronic Identification;
Certified Veterinary Technicians

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
10/1/04	<i>Sandra J. Harper</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
10/1/04	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
10/1/04	<i>Stephen J. Hoff</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)

August 19, 2004