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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

VICE CHAIRMAN, AGRICULTURE & RURAL
AFFAIRS
CHILDREN AND YOUTH
GAME AND FISHERIES
TOURISM & RECREATIONAL DEVELOPMENT

CHAIRMAN. CENTER FOR RURAL PENNSYLVANIA

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,


SHEILA MILLER

SHEILA MILLER
State Representative
129th Legislative District

SM/db
Encl.

DECLASSIFIED
DATE 17 MAR 2005
BY NND 600000000000

(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/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] 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.

* * * * *

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:

* * * * *

[Animal health] Veterinary technicians:

* * * * *

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