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*House of Representatives*  
COMMONWEALTH OF PENNSYLVANIA  
HARRISBURG

CHAIRMAN  
PROFESSIONAL LICENSURE COMMITTEE

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April 14, 2004

John R. McGinley, Jr. Chairman  
Independent Regulatory Review Commission  
14<sup>th</sup> Floor, Harrisburg 2  
333 Market Street  
Harrisburg, PA 17101

Dear Chairman McGinley:

The Professional Licensure Committee held a meeting on April 14, 2004, to consider the following:

**Regulation 16A-5715** - Proposed rulemaking pertaining to implanting electronic identification and veterinary technicians. The committee voted to take no formal action until the final regulation is promulgated. The committee submits the following comment:

1. The committee notes 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."

Please feel free to contact my office should any questions arise.

Sincerely,

A handwritten signature in cursive script that reads "Thomas P. Gannon".

Thomas P. Gannon  
Chairman  
Professional Licensure Committee

cc: Hon. Pedro A. Cortes, Secretary of the Commonwealth  
Department of State  
Brian v. Harpster, V.M.D. Chairperson  
State Board of Veterinary Medicine

## 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 employes" in Section 31.31(b)(3) has not been changed in the proposed regulation to "noncertified employees."