

Regulatory Analysis Form

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REVIEW COMMISSION

(1) Agency

Pennsylvania Department of Agriculture
Bureau of Dog Law Enforcement

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

2-146

IRRC Number:

2431

(3) Short Title

Amendments to dog licensure regulations to conform the statutory provisions of the Veterinary Medicine Practice Act (63 P.S. §§ 485.1-485.35) to the use of a microchip and tattoo as permanent identification for lifetime license.

(4) PA Code Cite

7 Pa. Code §§ 21.1-21.57

(5) Agency Contacts & Telephone Numbers

Primary Contact: Mary Bender (717) 787-3062

Secondary Contact: Rick L. Burd (717) 787-3062

(6) Type of Rulemaking (check one)

Proposed Rulemaking

Final Order Adopting Regulation

Final Order, Proposed Rulemaking Omitted ☒

(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.

The current Lifetime Licensure regulations of the Department are in direct conflict with the statutory provisions of the Veterinary Medicine Practice Act (63 P.S. §§ 485.1-485.35) and therefore, must be amended. The current lifetime licensure regulations at Chapter 21 (7 Pa. Code §§ 21.51) became effective March 15, 2003 (see 33 *Pennsylvania Bulletin* 1329). The regulations were previously amended to effectuate amendments to the Dog Law (act), which became effective December 11, 1996. The amendments to the act included amendments to the "Licenses, Tags And Kennels" provisions (3 P.S. §§ 459-200 - 459-219), which contain the lifetime license provisions at Section 201(b) (3 P.S. § 459-201(b)). The amendments to the act expanded the type of permanent identification means that could be utilized in conjunction with a lifetime license to include a microchip. The current lifetime licensure regulations allow the use of a microchip or a tattoo as a permanent means of identification, set forth who may apply a tattoo or implant of a microchip and delineate the procedure for obtaining a lifetime license. The regulations state that a tattoo "...shall be applied by a licensed veterinarian" (7 Pa. Code §

(8) Cont.

21.51(d)(5)) and allow a microchip to be implanted by a licensed veterinarian or licensed kennel owner (7 Pa. Code § 21.51(e)(1)). This language is now in direct opposition to provisions of the Veterinary Medicine Practice Act (63 P.S. §§ 485.1-485.35).

The Veterinary Medicine Practice Act was amended on December 9, 2002 and became effective 60 days later. The pertinent amendment to the Veterinary Medicine Practice Act involved changing the definition of the “practice of veterinary medicine” to specifically include implanting “...electronic identification, as determined by the board, upon any animal...” (63 P.S. § 485.3(10)(viii)). The Department, upon learning of the amendment, requested that the Pennsylvania State Board of Veterinary Medicine (Board) inform the Department as to whether a microchip constituted electronic identification – “as determined by the board.” In addition, the Department sought clarification as to whether a tattoo fell under the definition of the “practice of veterinary medicine.” The Board responded that a microchip was electronic identification and the practice of implantation of a microchip was the “practice of veterinary medicine” and that application of a tattoo did not fall under the definition of the “practice of veterinary medicine.”

Given the information set forth above, the current lifetime licensure regulations of the Department are in direct conflict with the statutory provisions of the Veterinary Medicine Practice Act and therefore, must be amended. The proposed amendments delineated in the Final-Omitted regulations revise the definitions section of the Dog Law regulations – at section 21.1 (7 Pa. Code § 21.1) – to include a citation for the Veterinary Medicine Practice Act and make changes to section 21.51 (relating to Lifetime dog license issuance)(7 Pa. Code § 21.51) that remove the mandate that only a licensed veterinarian may tattoo a dog and impose the restriction that a microchip must be implanted in a dog in a manner that is consistent with the provisions of the Veterinary Medicine Practice Act and its attendant regulations.

In the interest of continuing to carry out the policy of the act, which is to assure the health, safety, and humane treatment of dogs, and to assure the regulations are consistent with the provisions of the act and the Veterinary Medicine Practice Act, the Department is amending the regulations at Title 7, Chapters 21.1 and 21.51 (7 Pa.Code §§ 21.1 and 21.51), to effectuate the changes referred to above.

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

Section 201(b) (3 P.S. §§459-201(b)) of the act of December 7, 1982, P.L. 784, No. 225, as amended, December 11, 1996, P.L. 943, No. 151, known as the Dog Law (“Act”) (3 P.S. § 459-101 *et seq.*) provides the specific statutory authority for this regulation. There is no state or federal court decision(s) relevant to this proposed regulatory amendment.

Regulatory Analysis Form

(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 current Lifetime Licensure regulations of the Department are in direct conflict with the statutory provisions of the Veterinary Medicine Practice Act (63 P.S. §§ 485.1-485.35) and therefore, must be amended.

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

In the interest of continuing to carry out the policy of the act, which is to assure the health, safety, and humane treatment of dogs, and to assure the regulations are consistent with the provisions of the Act and the Veterinary Medicine Practice Act, the Department is amending the regulations at Title 7, Chapters 21.1 and 21.51 (7 Pa.Code §§ 21.1 and 21.51), to effectuate the changes referred to above.

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

The permanent identification of a dog through the use of a microchip or tattoo will make it easier for the general public to comply with the licensure provisions of the Dog Law and thereby promote greater compliance with the provisions of the Dog Law.

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

Pennsylvania's one million licensed dog owners will benefit from a clear, concise regulation that is consistent with the Veterinary Medicine Practice Act regarding the permanent identification of a dog for the purposes of lifetime licensure. Removing the mandate that only a licensed veterinarian may tattoo a dog will benefit those individuals who are not licensed veterinarians who perform dog tattooing.

(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.)

There should be no adverse affect on any dog owner, kennel owner, political subdivision or the general public.

(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 dog owners that license their dogs with a lifetime license may be affected by the regulations. However, no person, or group or entity is required to purchase a lifetime license. The regulation merely provides an additional method to license a dog, and provides a clear explanation on how to provide the permanent identification necessary to accomplish this.

(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.

Although these regulations are being submitted as Final-Omitted regulations, the Department in accordance with the mandate set forth at Section 902 of the act, held a public hearing on May 24, 2004, with regard to the regulation (3 P.S. § 459-902). Notice of the public hearing was published at 34 *Pennsylvania Bulletin* 2576 (May 15, 2004). In addition, members of the Dog Law Advisory Board, the Executive Directors of the House and Senate Agriculture and Rural Affairs Committees and other known interested parties, such as those who regularly attend public meetings of the Dog Law Advisory Board, were notified by regular mail. An official record of the public hearing is attached to these regulations and available for public inspection.

The Department received four written comments regarding the proposed amendments to the regulations -- which are attached to these regulations -- and three persons presented testimony at the public hearing. All of the comments and testimony were in support of the proposed changes to the

(16) Cont.

regulations. The only minor change made, based on a discussion with Counsel to the Pennsylvania State Board of Veterinary Medicine, was to include a reference to the regulations promulgated under the Veterinary Medicine Practice Act.

(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.

The proposed amendments to the regulations may impose an increased cost with regard to implantation of a microchip, however the Veterinary Medicine Practice Act does provide an exemption, which allows the owner of a dog to implant a microchip in his own dog. The change removing the requirement that a veterinarian apply a tattoo will actually reduce the cost of applying a tattoo and allow more persons to profit. Both a tattoo and a microchip are, however, optional choices for compliance with the provisions of the Dog Law with regard to dog licensing.

(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 will be no costs or savings to local governments associated with compliance with the proposed regulatory amendment. No additional legal, accounting or consulting procedures are imposed on local governments by this proposed regulatory amendment.

(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 will be no costs or savings to state governments associated with compliance with the proposed regulatory amendment. The proposed change will not increase or decrease the Department's regulatory workload.

Regulatory Analysis Form

(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:	\$	\$	\$	\$	\$	\$
Regulated	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Savings						
COSTS:						
Regulated	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Costs	N/A	N/A	N/A	N/A	N/A	N/A
REVENUE LOSSES:						
Regulated	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Revenue Losses						

Regulatory Analysis Form

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

Program	FY-3	FY-2	FY-1	Current FY
None	None	None	None	None
None	None	None	None	None
None	None	None	None	None
None	None	None	None	None

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

N/A

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

There have been no alternatives considered. To effectuate the changes mandated by the amendments to the Veterinary Medicine Practice Act, an amendment to the regulation is necessary.

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

The proposed regulations were altered in response to the comments the Department received, and statutory changes to the Veterinary Medicine Practice Act.

(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.

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

No. The changes to the already existing lifetime licensure regulations impose no additional burden or cost that will put the Commonwealth at a disadvantage. In addition, the lifetime licensure of a dog is only one means of complying with the licensure provisions of the Dog Law.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

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

As stated previously, although these regulations are being submitted as Final-Omitted regulations, the Department in accordance with the mandate set forth at Section 902 of the act, held a public hearing on May 24, 2004, with regard to the regulation (3 P.S. § 459-902). No other meetings are scheduled.

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes attach copies of forms or reports which will be required as a result of implementation, if available.

The Department will no longer require proof that a tattoo has been applied by a licensed veterinarian, and will require proof that a licensed veterinarian (or dog owner) has implanted a microchip. This documentation is currently being prepared.

(29) Please list and 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 regulation applies only to dog owners. The proposed amendments are the result of meetings and discussions with affected industry groups and persons.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulations will be required; and the date by which any required permits, licenses or other approvals must be obtained?

Because the affected industry groups and persons have been involved in this regulatory change, the final-form regulation should be non-controversial. The Department anticipates the effective date of the regulation to be September of 2004.

Compliance with the regulation, as amended, will be required immediately.

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

The impact of this regulation will be reviewed annually as part of the budget process.

CDL-1

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE
BUREAU**

(Pursuant to Commonwealth Documents Law)

2004 SEP 17 PM 3:30

DO NOT WRITE IN THIS SPACE

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

By: _____
(Deputy Attorney General)

DATE OF APPROVAL

☒ Check if applicable
Copy not approved. Objections attached.

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

Department of Agriculture

DOCUMENT/FISCAL NOTE NO. 2-146

DATE OF ADOPTION

BY Dennis C Wolff
Dennis C Wolff
TITLE Secretary

EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

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

BY _____

8.26.04

DATE OF APPROVAL

Asst.

(Deputy General Counsel)

(Chief Counsel, Independent Agency)

(Strike inapplicable title)

☒ Check if applicable. No Attorney General Approval
or objection within 30 days after submission.

**FINAL-OMITTED RULEMAKING
Department of Agriculture
Bureau of Dog Law Enforcement
7 Pa. Code §§ 21.1 and 21.51
Amendments to Lifetime Licensure**

7 Pennsylvania Code
Part II. Dog Law Enforcement Bureau
Chapter 21. General Provisions; Kennels; Licensure;
Dog-Caused Damages

The Department of Agriculture (“Department”), under the specific authority of the act of December 7, 1982, P.L. 784, No. 225, as amended, December 11, 1996, P.L. 943, No. 151, known as the Dog Law (“Act”) (3 P.S. § 459-101 *et seq.*), hereby amends the regulations at Chapter 21 of Title 7 (7 Pa. Code §§ 21.1 and 21.51). This submission is made pursuant to a suggestion from the Independent Regulatory Review Commission (IRRC) to toll the final-omitted regulations delivered on September 1, 2004 to IRRC, the House and Senate Agriculture and Rural Affairs Committees and the Office of Attorney General in order to add clarifying language to subsection 21.51(e)(6). Subsection (e)(6) has been modified to contain language that is consistent the language and approach taken by the Department in Section 21.51, subsections (c), (e)(1) and (e)(5). The language also provides flexibility if the State Board of Veterinary Medicine, through its regulations, authorizes a person other than a licensed veterinarian to implant microchips. The modified language is contained in the first sentence of Subsection 21.51(e)(6). Although it still references a veterinarian, it now contains

language that would allow any other person authorized by the Veterinary Medicine Practice Act and the regulation promulgated thereunder to implant a microchip. This change is consistent with and within the scope of the recommendation suggested by the Commission. In addition, the Department modified language contained in sentences three and four of Subsection 21.51(e)(6). The modified language is the same as set forth in the first sentence of Subsection 21.51(e)(6) and serves to further clarify the intent of this subsection. The revised language is consistent the language and approach taken by the Department in Section 21.51, subsections (c), (e)(1) and (e)(5) and consistent with the intent and scope of the recommendation suggested by the Commission. Page numbers were added to the Annex A. As the Department made the Commissions' suggested changes to Section 21.51, it noted that the Annex A did not contain page numbers for easy reference. Although the Commission did not suggest this specific change, it does nothing to change the substantive provisions of the regulations and therefore is not outside the scope of the Commissions' recommendations.

Authority

The Department has the power and authority to amend and adopt these regulations. This authority includes:

(1) The general duty to implement the policy of the act set forth at Section 101, which states this is an act "...relating to dogs, regulating the keeping of dogs; providing for the licensing of dogs...providing for the abandonment of animals" and "providing for...liability of the owner of keeper of dogs for such damages." (3 P.S. § 459-101) The Department has a duty to assure the proper and humane licensure of dogs, to allow for the proper identification of dogs and a means by which a person may obtain reimbursement for certain dog-caused damages.

(2) The specific authority conferred by Section 201 of the act which, bestows upon the Department the power to promulgate regulations regarding the lifetime licensure of dogs.

Need for the amended Regulation and reason for submission as final-omitted

Public notice of intention to amend the Lifetime Licensure regulations under the procedures specified in §§201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §1204(2)), known as the Commonwealth Documents Law ("CDL"), has been omitted as authorized under §204(1) of

the CDL (45 P.S. §1204(1)), because the Department finds that these procedures under the circumstances unnecessary because the amendments pertain to topics where comments from the public are not appropriate, necessary or beneficial.

The current Lifetime Licensure regulations of the Department are in direct conflict with the statutory provisions of the Veterinary Medicine Practice Act (63 P.S. §§ 485.1-485.35) and therefore, must be amended. The Department is submitting the amended Lifetime Licensure regulations as Final-Omitted regulations because the regulatory amendments are pursuant to a statutory amendment to the Veterinary Medicine Practice Act, which makes provisions of the current lifetime licensure regulations illegal. Therefore, the proposed amendments to the Lifetime Licensure regulations pertain to topics where comments from the public are not appropriate, necessary or beneficial.

The current lifetime licensure regulations at Chapter 21 (7 Pa. Code § 21.51) became effective March 15, 2003 (see 33 *Pennsylvania Bulletin* 1329). The regulations were previously amended to effectuate amendments to the act, which became effective December 11, 1996. The amendments to the act included amendments to the “Licenses, Tags And Kennels”

provisions (3 P.S. §§ 459-200 - 459-219), which contain the lifetime license provisions at Section 201(b) (3 P.S. § 459-201(b). The amendments to the act expanded the type of permanent identification means that could be utilized in conjunction with a lifetime license to include a microchip. The current lifetime licensure regulations allow the use of a microchip or a tattoo as a permanent means of identification, set forth who may apply a tattoo or implant of a microchip and delineate the procedure for obtaining a lifetime license. The regulations state that a tattoo “...shall be applied by a licensed veterinarian” (7 Pa. Code § 21.51(d)(5)) and allow a microchip to be implanted by a licensed veterinarian or licensed kennel owner (7 Pa. Code § 21.51(e)(1)). This language is now in direct opposition to provisions of the Veterinary Medicine Practice Act (63 P.S. §§ 485.1-485.35).

The Veterinary Medicine Practice Act was amended on December 9, 2002 and became effective 60 days later. The pertinent amendment to the Veterinary Medicine Practice Act involved changing the definition of the “practice of veterinary medicine” to specifically include implanting “...electronic identification, as determined by the board, upon any animal...” (63 P.S. § 485.3(10)(viii)). The Department, upon learning of the amendment, requested that the Pennsylvania State Board of Veterinary Medicine (Board) inform the Department as to whether a microchip

constituted electronic identification – “as determined by the board.” In addition, the Department sought clarification as to whether a tattoo fell under the definition of the “practice of veterinary medicine.” The Board responded that a microchip was electronic identification and the practice of implantation of a microchip was the “practice of veterinary medicine” and that application of a tattoo did not fall under the definition of the “practice of veterinary medicine.”

Given the information set forth above, the current lifetime licensure regulations of the Department are in direct conflict with the statutory provisions of the Veterinary Medicine Practice Act and therefore, must be amended. The proposed amendments delineated in the Final-Omitted regulations revise the definitions section of the Dog Law regulations – at section 21.1 (7 Pa. Code § 21.1) – to include a citation for the Veterinary Medicine Practice Act and make changes to section 21.51 (relating to Lifetime dog license issuance)(7 Pa. Code § 21.51) that remove the mandate that only a licensed veterinarian may tattoo a dog and impose the restriction that a microchip must be implanted in a dog in a manner that is consistent with the provisions of the Veterinary Medicine Practice Act and its attendant regulations.

In the interest of continuing to carry out the policy of the act, which is to assure the health, safety, and humane treatment of dogs, and to assure the regulations are consistent with the provisions of the Act and the Veterinary Medicine Practice Act, the Department hereby amends the regulations at Title 7, Chapters 21.1 and 21.51 (7 Pa. Code §§ 21.1 and 21.51), to effectuate the changes referred to above.

In summary, the Department is satisfied there is a need for the amendments to the regulations, and that they are otherwise consistent with Executive Order 1996-1, "Regulatory Review and Promulgation."

Comments

Although these regulations are being submitted as Final-Omitted regulations, the Department in accordance with the mandate set forth at Section 902 of the act, held a public hearing on May 24, 2004, with regard to the regulation (3 P.S. § 459-902). Notice of the public hearing was published at 34 *Pennsylvania Bulletin* 2576 (May 15, 2004). In addition, members of the Dog Law Advisory Board, the Executive Directors of the House and Senate Agriculture and Rural Affairs Committees and other known interested parties, such as those who regularly attend public meetings of the Dog Law Advisory Board, were notified by regular mail. An official

record of the public hearing is attached to these regulations and available for public inspection.

The Department received four written comments regarding the proposed amendments to the regulations – which are attached to these regulations and three persons presented testimony at the public hearing. All of the comments and testimony were in support of the proposed changes to the regulations. The only minor change made, based on a discussion with Counsel to the Pennsylvania State Board of Veterinary Medicine, was to include a reference to the regulations promulgated under the Veterinary Medicine Practice Act.

FISCAL IMPACT

Commonwealth

The proposed amendments to the regulations will impose minimal costs and have minimal fiscal impact upon the Commonwealth. The proposed changes will not increase or decrease the regulatory workload. The amendments do not increase the scope of the regulations or the duties of the Department.

Political Subdivisions

The proposed amendments to the regulations will impose no additional costs and have no fiscal impact upon political subdivisions. The

amendments merely set forth the requirement that microchips be inserted into a dog in a manner consistent with the provisions of the Veterinary Medicine Practice Act and remove the previous restriction requiring a veterinarian to administer a tattoo. The Department will be able to provide licensing agents with any additional information or training material necessary to clarify the provisions of the Veterinary Medicine Practice Act.

Private Sector

The proposed amendments to the regulations may impose an increased cost with regard to implantation of a microchip, however the Veterinary Medicine Practice Act does provide an exemption, which allows the owner of a dog to implant a microchip in his own dog. The change removing the requirement that a veterinarian apply a tattoo will actually reduce the cost of applying a tattoo and allow more persons to profit. Furthermore, purchasing a lifetime license is voluntary and the regulations endeavor to streamline and provide as much flexibility to the process as is possible.

General Public

The proposed amendments to the regulations will impose no additional costs and have no fiscal impact on the general public. The proposed amendments to the regulations may impose an increased cost with

regard to implantation of a microchip, however the Veterinary Medicine Practice Act does provide an exemption, which allows the owner of a dog to implant a microchip in his own dog. The change removing the requirement that a veterinarian apply a tattoo will actually reduce the cost of applying a tattoo as a permanent means of identification. Once again, purchasing a lifetime license is voluntary and the regulations endeavor to streamline and provide as much flexibility to the process as is possible.

PAPERWORK REQUIREMENTS

The proposed amendments to the regulations will not result in any appreciable increase in paperwork.

CONTACT PERSON

Further information is available by contacting the Department of Agriculture, Bureau of Dog Law Enforcement, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408; Attn: Rick Burd (717) 787-4833.

REGULATORY REVIEW

Under §5a(c) of the Regulatory Review Act (71 P.S. §745.5a(c), the Department submitted a copy of the regulations with proposed rulemaking omitted on September 1, 2004 to the Independent Regulatory Review Commission (“IRRC”) and to the Chairpersons of the Senate and House Agriculture and Rural Affairs Committees (“Committees”). On the same

date, the regulations were submitted to the Office of Attorney General for review and approval as provided in the act of October 15, 1980 (P.L. 950, No. 164), known as the “Commonwealth Attorneys Act” (71 P.S. §§ 732-101--732-506). In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1.

In accordance with §5a(j.1) of the Regulatory Review Act, the regulations were deemed approved by the Committees on _____, 2004 and were approved by IRRC on _____, 2004.

FINDINGS

The Department finds that:

- (1) Public notice of intention to amend the Lifetime Licensure regulations by this order under the procedures specified by §§201 and 202 of the Commonwealth Documents Law (45 P.S. §§ 1201 and 1202) (“CDL”) has been omitted pursuant to the authority contained in section 204(1) of the CDL because the amendments to the regulations pertains to topics where comments from the public are not appropriate,

necessary or beneficial (45 P.S. § 1204(1)). The current Lifetime Licensure regulations of the Department are in direct conflict with the statutory provisions of the Veterinary Medicine Practice Act (63 P.S. §§ 485.1-485.35) pertaining to the practice of veterinarian medicine and therefore, must be amended.

(2) The amendment of the regulation of the Department relating to Lifetime Licensure in the manner provided in this order, is necessary and appropriate for the proper administration of its authorizing statute and to assure there is no conflict with another Commonwealth statute pertaining to the practice of veterinarian medicine.

(3) The modifications that were made to these regulations are intended to bring them into compliance with the provisions of the Veterinary Medicine Practice Act and its attendant regulations and do not increase the scope of the regulations.

(4) A public hearing was held as required by Section 902 of the Act (3 P.S. § 459-902). Notice of the public hearing was published at 34 *Pennsylvania Bulletin* 2576 (May 15, 2004). In addition, members of the Dog Law Advisory Board, the

Executive Directors of the House and Senate Agriculture and Rural Affairs Committees and other known interested parties, such as those who regularly attend public meetings of the Dog Law Advisory Board, were notified by regular mail.

ORDER

The Department of Agriculture, acting under authority of the authorizing statute, orders the following:

- (1) The new regulations of the Department of Agriculture at 7 Pa. Code Chapter 21, Sections 21.1 and 21.51 (relating to Definitions and Lifetime dog license issuance) are adopted as set forth in Annex “A” attached hereto.
- (2) The Secretary of Agriculture shall submit this Order and Annex “A” to the Office of General Counsel and to the Office of Attorney General for review and approval as to legality and form, as required by law.
- (3) The Secretary of Agriculture shall certify this Order and Annex “A” and deposit them with the Legislative Reference Bureau, as required by law.
- (4) This Order shall take effect upon publication in the *Pennsylvania Bulletin*.

BY THE DEPARTMENT OF
AGRICULTURE

DENNIS C WOLFF, SECRETARY

Annex “A”

7 Pennsylvania Code

Part II. Dog Law Enforcement Bureau

**CHAPTER 21. GENERAL PROVISIONS; KENNELS;
LICENSURE;**

DOG-CAUSED DAMAGES

GENERAL PROVISIONS, KENNELS

GENERAL PROVISIONS

§ 21.1. Definitions.

Veterinary Medicine Practice Act – The Act of
December 27, 1974 (P.L. 995, No. 326), codified at
(63 P.S. §§ 485.1-485.35)

KENNELS-PRIMARY ENCLOSURES

KENNELS-PRIMARY CONVEYANCES

KENNELS-RECORDS

LICENSURE

§ 21.51. Lifetime dog license issuance.

(a) *Eligibility.* The owner of a dog 3 months of age or older may apply to the county treasurer or agent, on a form prescribed by the Department for a lifetime license.

(b) *Lifetime license requirement.* A lifetime license shall consist of the following:

(1) A lifetime license number issued by the county treasurer or agent and a tag bearing that lifetime license number.

(2) A tattoo or microchip permanently identifying the dog.

(c) *Permanent identification requirement.* A person applying for a lifetime license shall choose either a tattoo or the implantation of a microchip as the means of permanent identification for the dog. The person applying for a lifetime license is responsible for having the dog tattooed or a microchip implanted to permanently identify the dog. Application of a tattoo or implantation of a microchip shall be done in a manner consistent with the provisions of the Veterinary Medicine Practice Act and the regulations promulgated thereunder at Title 49 of the Pennsylvania Code, Chapter 31 (49 Pa. Code §§ 31.1 et seq.).

(d) *Tattoo as permanent identification.* If the applicant chooses to have the dog tattooed as a means of permanent identification, the following rules and procedures apply:

(1) Prior to having the dog tattooed, the dog owner shall obtain and complete a lifetime license application from the county treasurer or agent of his respective county. The dog owner shall obtain and complete the lifetime license application in person or by mail and shall return the completed lifetime license application to the county treasurer or agent. The dog owner shall include the appropriate fees, set forth on the

lifetime license application and in sections 200(b) and 201(b) of the act (3 P. S. § § 459-200(b) and 459-201(b)), with the completed lifetime license application.

(2) Upon receipt of a completed lifetime license application the county treasurer or agent shall follow the procedures in subsection (g). If the lifetime license application is determined to be complete, the county treasurer or agent shall issue a lifetime license number as set forth in subsection (g) and issue a verification of [tattoo] permanent identification form, prescribed by the Department.

(3) Upon receiving the lifetime license number and verification of [tattoo] permanent identification form issued by the county treasurer or agent, the dog owner shall have the dog tattooed in accordance with this chapter.

(4) The tattoo number applied to the dog shall be the same number as the lifetime license number issued by the county treasurer or agent.

(5) The tattoo shall be applied [by a licensed veterinarian and shall be] on the right hind leg on the inner part of the upper thigh of the dog. The dog owner may have the letters "PA" tattooed on the dog immediately preceding the tattoo number.

(6) The dog owner and the [veterinarian] person applying the tattoo shall complete, date and sign the verification of [tattoo] permanent identification form for the dog receiving the tattoo and return it to the county treasurer or agent that issued the lifetime license number and tag. The verification of [tattoo] permanent identification form shall set forth the exact number tattooed on the dog, identify the dog by breed and delineate the dog's age, sex, color and markings and whether the dog has been spayed or neutered. In addition, it shall contain the name, address and phone number of the dog's owner and the name, [business] address and phone number of the [veterinarian] person applying the tattoo. [The veterinarian shall set forth his veterinary practice license number on the form.]

(7) The dog owner shall have 30 days from receipt of a lifetime license number and verification of [tattoo] permanent identification form to have the dog tattooed and return the verification of [tattoo] permanent identification form to the county treasurer or agent that issued the lifetime license number.

(8) Upon receiving the completed verification of [tattoo] permanent identification form, the county treasurer or agent shall issue the lifetime license and tag to the dog owner.

(9) A dog owner who fails to have the dog tattooed and return the completed verification of [tattoo] permanent identification form to the issuing county treasurer or agent within 30 days after receiving a lifetime license number and verification of [tattoo] permanent identification form shall be in violation of the licensure provisions of the act and this chapter and subject to the penalties prescribed therein. In addition, the lifetime license number and tag shall be void. The issuing county treasurer or agent shall return the lifetime license fee to the dog owner and record and report the noncompliance to the Department as set forth in § 21.52 (relating to recordkeeping for lifetime dog licenses). The issuing county treasurer and, if applicable, the agent shall retain the applicable issuance fees, set forth in section 200(b) of the act.

(e) *Microchip as permanent identification.* If the applicant chooses to have a microchip implanted in the dog as a means of permanent identification, the following rules and procedures apply:

(1) The dog owner shall have a microchip implanted in the dog [by a licensed veterinarian or a licensed kennel owner] in a manner consistent with the Veterinary Medicine Practice Act and the regulations promulgated thereunder at Title 49 of the Pennsylvania Code, Chapter 31 (49 Pa. Code §§ 31.1 et seq.). The microchip implanted shall be of a type consistent with the definition of “microchip” in § 21.1 (relating to definitions) and shall be implanted in accordance with the manufacturer’s specifications.

(2) The dog owner shall obtain and complete both a lifetime license application and a verification of [microchip] permanent identification form prescribed by the Department.

(3) The dog owner shall obtain a lifetime license application from the county treasurer or agent of his respective county. The dog owner may obtain the lifetime license application in person or by mail.

(4) The lifetime license application may be obtained and completed either prior to or after implantation of a microchip in the dog. The application and a verification of [microchip] permanent identification form shall be completed and signed prior to the issuance of a lifetime license and tag. The final packet submitted by the dog owner to the county treasurer or agent shall contain the properly completed lifetime license application and verification of [microchip] permanent identification form and the appropriate fees, set forth on the lifetime license application and in sections 200(b) and 201(b) of the act.

(5) If the dog owner obtains a lifetime license application prior to having a microchip implanted in the dog, the dog owner may request and the county treasurer or agent shall issue a verification of [microchip] permanent identification form along with the lifetime license application. If the dog owner has not yet applied for a lifetime license prior to implantation of the microchip, the licensed veterinarian [or kennel owner] implanting the microchip shall supply the verification of [microchip] permanent identification form. A licensed veterinarian [or kennel owner] shall obtain the verification form from the Department. Where the dog owner, consistent with the provisions of the Veterinary Medicine Practice Act and the regulations promulgated thereunder at Title 49 of the Pennsylvania Code, Chapter 31 (49 Pa. Code §§ 31.1 et seq.), personally implants the microchip in his own dog the dog owner may obtain the verification of permanent identification form from the county treasurer or agent and shall fill out the required information.

(6) The dog owner and where the dog owner does not implant the microchip himself but, instead has a [person] licensed veterinarian or person authorized to implant a microchip consistent with the provisions of the Veterinary Medicine Practice Act and the regulations promulgated thereunder at Title 49 of the *Pennsylvania Code*, Chapter 31 (49 Pa. Code § 31.1 *et. seq*) implant the microchip, the licensed veterinarian [implanting the microchip] shall complete, date and sign the verification of [microchip] permanent identification form for the dog in which the microchip is implanted. The completed verification of [microchip] permanent identification form shall set forth the identifying number of the microchip implanted, identify the dog by breed and delineate the dog's age, sex, color and markings and whether the dog has been spayed or neutered. In addition, it shall contain the name, address and phone number of the dog's owner and where a licensed veterinarian or person authorized to implant a microchip consistent with the provisions of the Veterinary Medicine Practice Act and the regulations promulgated thereunder at Title 49 of the *Pennsylvania Code*, Chapter 31 (49 Pa. Code § 31.1 *et. seq*) has implanted the microchip, the name, business address and phone number of the [person] licensed veterinarian [implanting the microchip]. If a licensed veterinarian or person authorized to implant a microchip consistent with the provisions of the Veterinary Medicine Practice Act and the regulations promulgated thereunder at Title 49 of the *Pennsylvania Code*, Chapter 31 (49 Pa. Code § 31.1 *et. seq*) implants the microchip, the licensed veterinarian shall set forth his veterinary practice license number on the verification of permanent identification form.

(7) The dog owner shall complete the lifetime license application and take or mail the completed lifetime license application and verification of [microchip] permanent identification form to the county treasurer or agent of his respective county.

(8) Upon receiving a properly completed lifetime license application and verification of [microchip] permanent identification form, as well as the appropriate fees, as set forth

on the lifetime license application and in sections 200(b) and 201(b) of the act, the county treasurer or agent shall issue a lifetime license number and tag as set forth in subsection (g).

(9) A dog owner who fails to have the dog microchipped and return the completed verification of [microchip] permanent identification form to the issuing county treasurer or agent within 30 days after receiving a lifetime license number and verification of [microchip] permanent identification form shall be in violation of the licensure provisions of the act and this chapter and subject to the penalties prescribed therein. In addition, the lifetime license number and tag shall be void. The issuing county treasurer or agent shall return the lifetime license fee to the dog owner and record and report the noncompliance to the Department as set forth in § 21.52. The issuing county treasurer and, if applicable, the agent shall retain the applicable issuance fees, set forth in section 200(b) of the act.

(f) *Dog previously microchipped.* If a person has already had a microchip implanted in his dog and seeks to obtain a lifetime license for the dog, the applicant is not required to have a new microchip implanted in the dog as a means of permanent identification. Instead the applicant shall:

(1) Obtain and complete both a lifetime license application and a verification of [microchip] permanent identification form prescribed by the Department. The lifetime license application may be obtained and completed either prior or subsequent to having the dog scanned for a microchip as set forth in this subsection. The verification of [microchip] permanent identification form shall be filled out at the same time the dog is scanned.

(2) Have a licensed veterinarian or kennel owner, scan the dog to assure the microchip has been properly implanted and to obtain the identifying number of the microchip.

(3) The dog owner and the licensed veterinarian or kennel owner shall complete, date and sign the verification of [microchip] permanent identification form for the dog in which

the microchip was scanned. The verification of [microchip] permanent identification form shall set forth the identifying number of the microchip scanned, identify the dog by breed and delineate the dog's age, sex, color and markings and whether the dog has been spayed or neutered. In addition, it shall contain the name, address and phone number of the dog's owner and the name, business address and phone number of the person scanning the microchip number. If a veterinarian is involved, the veterinarian shall set forth his veterinary practice license number on the verification of [microchip] permanent identification form.

(4) The dog owner or licensed veterinarian [or kennel owner] may obtain a verification of [microchip] permanent identification form.

(i) The dog owner may obtain a verification of [microchip] permanent identification form, along with a lifetime license application, from the county treasurer or agent in his respective county of residence prior to scanning of the dog for an existing microchip. If the dog owner takes his dog to a licensed veterinarian for implantation of the microchip and has not yet applied for a lifetime license, the licensed veterinarian [or kennel owner] shall supply the verification of [microchip] permanent identification form.

(ii) A licensed veterinarian [or kennel owner] shall obtain verification of [microchip] permanent identification forms from the Department.

(5) The dog owner shall deliver to the county treasurer or agent, in person or by mail, the properly completed lifetime license application and verification of [microchip] permanent identification form and the appropriate fees, as set forth on the lifetime license application and in sections 200(b) and 201(b) of the act.

(6) Upon receiving a properly completed lifetime license application and verification of [microchip] permanent identification form, as well as the appropriate fees, as set forth

on the lifetime license application and in sections 200(b) and 201(b) of the act, the county treasurer or agent shall issue a lifetime license number and tag as set forth in subsection (g).

(g) County treasurer or agent procedure for issuance of lifetime license.

(1) General.

(i) One lifetime license per lifetime license application. A lifetime license application shall be completed for each dog for which a lifetime license is requested. The county treasurer or agent shall issue only one lifetime license and tag for each properly completed lifetime license application. The county treasurer or agent shall collect the applicable fees, as set forth on the lifetime license application and in sections 200(b) and 201(b) of the act, for the lifetime license before issuing the lifetime license and tag.

(ii) Assignment of lifetime license number. The lifetime license shall list a number. The county treasurer or agent shall assign a lifetime license number for each dog for which a properly completed lifetime license application has been submitted and approved. The county treasurer or agent shall issue the lifetime license number on the lifetime license certificate and tag. The number shall be at least six digits with the first two digits designating the county. For example, Adams County number shall begin with 01; York County, with 67. The county number shall be followed by at least four digits assigned by the county treasurer or his agent. For example, the lifetime license number assigned by York County for the first dog licensed would be 670001.

(2) Tattoo procedure. If the dog owner intends to tattoo the dog as the means of permanent identification the dog owner shall complete a lifetime license application and pay the applicable fees, as set forth on the lifetime license application and in sections 200(b) and 201(b) of the act, prior to the county treasurer or agent issuing a lifetime license and tag. The county treasurer or agent, upon receipt of a properly completed lifetime

license application and the applicable fees, shall complete the lifetime license from information on the lifetime license application. The county treasurer or agent shall assign a lifetime license number as set forth in paragraph (1)(ii) and shall issue a verification of [tattoo] permanent identification form, prescribed by the Department, to the dog owner. The dog owner shall have 30 days from receipt of a lifetime license number and verification of [tattoo] permanent identification form to have the dog tattooed and return a completed verification of [tattoo] permanent identification form to the issuing county treasurer or agent. If the dog owner fails to return the verification of [tattoo] permanent identification form within the 30 day time period, the issuing county treasurer or agent shall void the lifetime license, refund the lifetime license fee, record and designate the lifetime license number as void and report the noncompliance to the Department as set forth in § 21.52. The issuing county treasurer and, if applicable, the agent shall retain the applicable issuance fees, set forth in section 200(b) of the act. The lifetime license number may not be reissued to future applicants other than the original applicant.

(3) *Microchip procedure.* If the dog owner intends to use a microchip as the means of permanent identification, the dog owner may have a microchip implanted in the dog prior to completing an application for a lifetime license. The dog owner shall complete a lifetime license application and verification of [microchip] permanent identification form and pay the applicable fees, set forth on the lifetime license application and in sections 200(b) and 201(b) of the act, prior to the county treasurer or agent issuing the lifetime license and tag. The county treasurer or agent shall, upon request of the dog owner, issue a lifetime license application and a verification of [microchip] permanent identification form. Upon receiving a completed lifetime license application, verification of [microchip] permanent identification form and the applicable fees, the county treasurer or agent shall complete the lifetime license from information on the lifetime license application and verification of [microchip] permanent identification form, assign a lifetime license number as set forth in paragraph (1)(ii) and issue the lifetime license and tag. The county treasurer or

agent may not issue a lifetime license and tag until the dog owner has properly completed both the lifetime license application and the verification of [microchip] permanent identification form. The county treasurer or agent shall record both the lifetime license number issued and the microchip number set forth on the verification of [microchip] permanent identification form. The dog owner shall have 30 days from receipt of a verification of [microchip] permanent identification form to have a microchip implanted in the dog or have a currently microchipped dog scanned and return a completed verification of [microchip] permanent identification form to the issuing county treasurer or agent. If the dog owner fails to return the verification of [microchip] permanent identification form within the 30 day time period, the issuing county treasurer or agent shall void the lifetime license, refund the lifetime license fee, record and designate the lifetime license number as void and report the noncompliance to the Department as set forth in § 21.52. The issuing county treasurer and, if applicable, the agent shall retain the applicable issuance fees, set forth in section 200(b) of the act. The lifetime license number may not be reissued to future applicants other than the original applicant.

DOG-CAUSED DAMAGES

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF AGRICULTURE

* * * * *

IN RE: BUREAU OF *

DOG LAW ENFORCEMENT *

PUBLIC HEARING LIFETIME*

LICENSURE REGULATIONS *

*

COPY

* * * * *

PUBLIC HEARING

BEFORE: MARY Y. BENDER,

DIRECTOR OF BUREAU OF DOG LAW

ENFORCEMENT

HEARING: Monday, May, 24, 2004

10:01 a.m.

LOCATION: Department of Agriculture

2301 North Cameron Street

Room 202

Harrisburg, Pennsylvania 17110

WITNESSES: Frederick Hawking, Sally Birgl,

Linda Lowney

Reporter: Jacquelyn J. Fodor

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A P P E A R A N C E S

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4 WITNESS: Frederick Hawkins
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7 TESTIMONY 20 - 21
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P R O C E E D I N G S

1
2 -----
3 MS. BENDER:
4 Good morning everyone. Since the
5 hour is here I'd like to get started. I am Mary
6 Bender I'm the director of Bureau of Dog Law
7 Enforcement. To my right is David Kennedy from
8 the Office of General Counsel assigned to the
9 Bureau in the Department of Agriculture. We're
10 here this morning for the published meeting on
11 the changes to the dog law regulations regarding
12 lifetime licenses, tattoos and microchips. The
13 meeting was duly published in the May 15th
14 Pennsylvania Bulletin and Sunshined.
15 In addition the Bureau mailed
16 copies of the notice along with the proposed
17 changes to all of the members of the Dog Law
18 Advisory Board, the executive directors in the
19 House and Senate AG Committee, other interested
20 parties who had informed us that they were
21 interested in our changes to these regulations
22 and anyone else who asked for them by hard copy
23 and by e-mail.
24 The notice in the Pennsylvania
25 Bulletin asked that anyone who wish to testify

1 meets on June 8th. So if it's possible for you
2 to have a draft back to me before that, then I'd
3 be able to actually give you comments from the
4 Board as opposed to sort of more or less just
5 from me.

6 ATTORNEY KENNEDY:

7 Okay.

8 ATTORNEY LAZO-MILLER:

9 Which is what our discussion before
10 had been.

11 ATTORNEY KENNEDY:

12 Yes. We will consider that. And I
13 will --- we'll consider that before we go to
14 final admitted. We are going to be on a tight
15 time schedule by the way, because we do want to
16 get these into final admitted. They're going to
17 a final admit which means they don't go back
18 through the proposed stage, we've already
19 checked with IIRC on that and they suggest that
20 we do it that way especially because as you
21 know, Teresa, by the way Teresa is Counsel for
22 the Veterinary Medical Practice Board.

23 As you know the regulations as
24 written right now are out of compliance with the
25 Veterinary Medical Practice Act. Just so

1 testimony, but if anybody wants to offer
2 testimony today despite the fact that we had
3 said let us know in advance, we'll allow it. I
4 believe it's okay. But it will be under oath
5 and you will have to state your name before we
6 offer testimony, okay.

7 MS. BENDER:

8 For everyone's information purposes
9 on the process of this. The requirement that is
10 currently in regulation stays in regulation
11 until the end of the regulatory process. David
12 mentioned that we are on a tight timetable
13 because we want to move quickly to implement
14 these regulations and it will need IIRC
15 approval, Independent Regulatory Review
16 Commission, approval to change the regulations
17 back and, David?

18 ATTORNEY KENNEDY:

19 Also the way this process will work
20 is it will go before the House and Senate
21 Committees on Agriculture, they'll take a look
22 at the changes, they'll have 20 days to either
23 accept them or toll them or reject them. At the
24 same time a 30-day review period will run for
25 the Independent Regulatory Review Commission.

1 everybody else knows an act basically trumps a
2 regulation, so their act is what applies right
3 now, which means microchipping must be done by a
4 veterinarian or you do it to your own personal
5 dog, one that you own. But a private
6 individual, a kennel owner, somebody like that
7 cannot insert a microchip into your dog. We are
8 going to change the regs to be in compliance
9 with that act.

10 The other thing that we're going to
11 do with the regulations that we presented to the
12 Dog Advisory Board about a month ago and it was
13 --- is provide change to tattooing section, the
14 tattooing section had granted only veterinarian
15 could tattoo a dog. We are going to change that
16 back because speaking with the veterinarians and
17 Teresa that is not a Veterinary Medical Practice
18 Act therefore it's open to anybody to tattoo a
19 dog. So we're going to change the regs back so
20 that anybody can tattoo.

21 MS. BENDER:

22 I need to get your name.

23 ATTORNEY KENNEDY:

24 Yes, this is a --- just so

25 everybody knows, Teresa, that really wasn't

1 After that 30-day period they will have to
2 schedule a public hearing on the regulations at
3 which they will either allow them to go through
4 or they will reject them. If they go through
5 then after that --- well, no, I'm sorry. It's
6 going to final admitted so at the same time we
7 submit these to IIRC and the standing committees
8 we will submit them to the Attorney General for
9 the Attorney General's review and the Attorney
10 General has to approve them as well.
11 Once those approvals are in then
12 they go to the Pennsylvania Bulletin for
13 publication. Once they're published in the
14 Pennsylvania Bulletin they become law. Right
15 now that time schedule looks like it will be
16 sometime around the middle of August to the
17 middle of September and that depends on a lot of
18 things. All these people can toll the
19 regulation at some point at which time we have
20 to answer their comments and start their time
21 periods running again. So and then you even get
22 all those approvals the Pennsylvania Bulletin
23 has set time schedules when they publish so if
24 you come in towards the end of one you might not
25 get it for another two or three weeks until

1 MR. HAWKINS:
 2 Well, I was not aware until I went
 3 in September last year until I got two dogs that
 4 I needed to get a license that there had been a
 5 change.
 6 ATTORNEY KENNEDY:
 7 Okay. Well, we'll be changing them
 8 back and as soon as you can get through the
 9 process anybody can tattoo again.
 10 MR. HAWKINS:
 11 Thank you.
 12 MS. BENDER:
 13 And, sir, I can tell you that that
 14 is exactly --- the meeting in the fall with the
 15 Federation and the information that you provided
 16 is what led to what we're doing today.
 17 MR. HAWKINS:
 18 Thank you.
 19 MS. BENDER:
 20 So not only yours we heard from
 21 several folks who were concerned about the
 22 requirement that a veterinarian tattoo and
 23 that's what got us to this hearing today and
 24 what we are proposing today is to remove the
 25 requirement for a veterinarian to tattoo and to

1 going to hold strictly to it. It's something
 2 that we put out because if you're going to offer
 3 we'd like to know so we can schedule this room,
 4 you know, about how much time the hearings going
 5 to take, things such as that. Go ahead you can
 6 state your name for the record and then she will
 7 put you under oath.
 8 MS. BIRGL:
 9 My name is Sally Birgl from
 10 Campton, Pennsylvania.
 11 -----
 12 SALLY BIRGL, HAVING BEEN FIRST DULY SWORN
 13 TESTIFIED AS FOLLOWS:
 14 -----
 15 MS. BIRGL:
 16 I too have a letter that I wrote
 17 up, I don't see the need to read the whole
 18 thing. Generally it states exactly what
 19 everybody else is been saying. I have been
 20 tattooing dogs for 25 years give or take. I had
 21 spoke with Mary at the Lehigh Valley Kennel
 22 Clubs ---
 23 MS. BENDER:
 24 Canine League.
 25 MS. BIRGL:

1 make our regulations consistent on microchips
 2 with the Veterinary Medical Practices Act.
 3 MR. HAWKINS:
 4 While I'm still under oath. I
 5 contacted Charles Lentz' (phonetic) office in
 6 September 2003 and worked over the phone with
 7 staff and apparently his new campaign some of
 8 that staff got pushed to running a campaign and
 9 some of them were staffed took over the job. I
 10 had asked through Charlie Lentz' office to be
 11 notified of this hearing and I did not learn of
 12 this hearing until Friday. I never heard and
 13 I've yet to hear from my records and in this
 14 case, et cetera, about --- despite of asking
 15 directly his office to be told of this meeting
 16 was to happen. So on my part I apologize for
 17 not having told you ahead of time.
 18 MS. BENDER:
 19 That's fine.
 20 MR. HAWKINS:
 21 Because I had no way.
 22 ATTORNEY KENNEDY:
 23 That's quite all right we decided
 24 ahead of time that if somebody came and wanted
 25 to offer testimony they could do it, we were not

1 --- Canine League, thank you in
 2 January she had at that time the opportunity to
 3 witness a few dogs being tattooed. Whatever
 4 conclusions she came to from that meeting I hope
 5 were favorable, I would however like to add this
 6 in. Just a letter that I have.
 7 ATTORNEY KENNEDY:
 8 Sure.
 9 MS. BENDER:
 10 Sure.
 11 MS. BIRGL:
 12 Thank you.
 13 ATTORNEY KENNEDY:
 14 Mark that as Dog Law Six.
 15 (Dog Law Exhibit Six marked for
 16 identification.)
 17 MS. BENDER:
 18 Just to add to Sally's comment she
 19 wasn't doing the tattooing the day I was at the
 20 Canine League Experience, nice to meet you.
 21 MS. LONEY:
 22 Good morning. My name is Linda
 23 Lowney, I'm in Langhorn, Pennsylvania. I have
 24 Town and Country Kennels and I did want to make
 25 a comment. I also didn't have an opportunity to

1 open that up a little bit to technicians that
 2 are certified, where a vet gives an order or has
 3 a standing order which should help all shelters
 4 and programs like that because they have a
 5 standing order to the technicians there. Or for
 6 non-certified employees that are employed within
 7 a veterinarian facility with a veterinarian
 8 there able to come and assist or watch or help
 9 or whatever.
 10 That the public comment period on
 11 that has actually closed, however if you would
 12 be interested in making, you know, comments to
 13 the board certainly we welcome all comments
 14 prior to our publication of final rule making.
 15 We have received some negative comments relating
 16 to allowing the non-certified employees
 17 microchip. The commenter is from the
 18 Federation, the Pennsylvania Federation of Dog
 19 Clubs believes that only a licensed veterinarian
 20 should be allowed to microchip and perhaps a
 21 certified veterinarian technician. So that's
 22 the battle that we're kind of fighting now is
 23 defending our opening up to non-certified
 24 employees. If you have any comments we're
 25 certainly happy to hear them.

1 so and it was in conjunction with veterinarian.
 2 And I am certified with some procedures as far
 3 as working with animals presently.
 4 ATTORNEY KENNEDY:
 5 I just wanted Teresa to be able to
 6 clarify because I knew that had the regulations
 7 out there as well, and you were starting to open
 8 it up a little bit. You know them a heck of a
 9 lot better than I do so I let them go.
 10 ATTORNEY LAZO-MILLER:
 11 Certainly I appreciate it.
 12 ATTORNEY KENNEDY:
 13 You bet. Okay. Is there anymore
 14 testimony to be offered? I'll make a --- since
 15 there's only two of us up here. As the attorney
 16 I guess I'll make a motion to adjourn this
 17 public hearing.
 18 MS. BENDER:
 19 Do I second?
 20 ATTORNEY KENNEDY:
 21 Yes, if you want to.
 22 MS. BENDER:
 23 And we agree?
 24 ATTORNEY KENNEDY:
 25 Yes.

1 MS. LOWNY:
 2 Who would we call?
 3 ATTORNEY LAZO-MILLER:
 4 The State Board of Veterinary
 5 Medicine.
 6 MS. LOWNY:
 7 It's so hard to get your phone
 8 number.
 9 ATTORNEY LAZO-MILLER:
 10 You know what, let me give it to
 11 you after the meeting.
 12 MS. LOWNY:
 13 That's fine.
 14 ATTORNEY LAZO-MILLER:
 15 Outside the context of the ---.
 16 MS. LOWNY:
 17 Thank you.
 18 ATTORNEY KENNEDY:
 19 Thank you very much. Any further
 20 comments or testimony that anyone would like to
 21 offer?
 22 MS. BIRGL:
 23 One other comment just to clarify
 24 things in case I had broken any laws. This was
 25 prior to that passage when we did the chipping,

1 MS. BENDER:
 2 So adjourned, thank you all for
 3 coming.
 4
 5 * * * * *
 6 HEARING CONCLUDED AT 10:25 A.M.
 7 * * * * *

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C E R T I F I C A T E

I HEREBY CERTIFY THAT THE FOREGOING PROCEEDINGS
WERE REPORTED STENOGRAPHICALLY BY ME AND THEREAFTER
REDUCED TO TYPEWRITING AND THAT THIS TRANSCRIPT
IS A TRUE AND ACCURATE RECORD THEREOF.

SARGENT'S COURT REPORTING SERVICE, INC.

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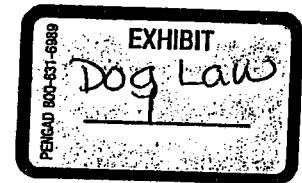
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P.O. Box 277
Lahaska, Pa. 18931

May 11, 2004

Mary Bender, Director
PA Department of Agriculture
Bureau of Dog Law Enforcement
2301 N. Cameron Street
Harrisburg, PA 17110



Comments on Lifetime Licence Regulation

Dear Mary:

I am writing on behalf of the member societies of the Federated Humane Societies of PA concerning the changes to the Lifetime License portion of the kennel regulations. We understand the need for the changes and support the language of the amended regulation.

It is common practice for shelters to microchip the dogs in their shelter prior to adoption and it may be common for commercial kennel operators to microchip dogs prior to sale as well. Since the language of the current regulation uses the phrase "consistent with the Veterinary Practices Act" and since most shelters, kennels or treasurers offices do not keep a copy of the Veterinary Practices Act on hand I request that the Department send out a cover letter to treasurers, shelters and kennel operators that makes it clear that the practice of microchipping their own animals prior to adoption or sale IS still consistent with the Veterinary Practices Act. This important educational step will help to avoid concern and confusion when the new regulation is adopted.

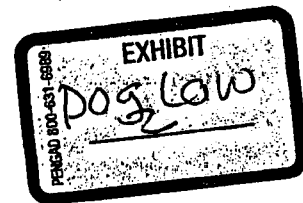
Sincerely,

Anne Irwin
Executive Director, Bucks County SPCA
Legislative Chairman, Federated Humane Societies of PA



4338 Clear Way
Allentown, PA 18103
May 12, 2004

Mary Bender
Department of Agriculture
Bureau of Dog Law Enforcement
2301 N. Cameron St.
Harrisburg, PA 17110-9408



Dear Mary,

The Lehigh Valley Kennel Club recently became aware of a public hearing being held on May 24, 2004 that will address the issue of Lifetime Dog Licensing. We are somewhat disappointed that our club wasn't notified personally about the hearing considering the contact we had with your organization voicing our concerns on this issue.

We are resending our original letter addressing the issues we have with this new rule and regulation and hope you will present our letter and concerns at the public hearing. We were happy that you were able to take time from your busy schedule to visit our Canine Learning Experience and observe first hand our Tattoo Clinic. We hope that the experience you had with our club and Tattoo Clinic gave you a new perspective on tattooing. We will appreciate any input you make on our behalf. We are hoping for a reversal of this rule and regulation in the near future.

Thank you very much for your interest in this issue. We will be anxiously awaiting the results of this hearing.

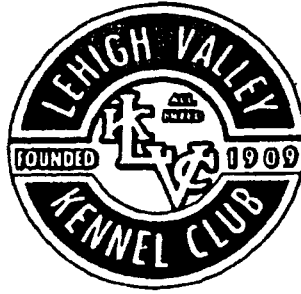
Sincerely,

Barbara E Dunkling

Barbara E. Dunkling
Corresponding Secretary.

Paula Fehnel: PA Federation Representative
(610) 767-4514
Barbara Dunkling: Corresponding Secretary
(610) 435-5897
Ed Smizer: Club President
(610) 588-7793

autumnsnd@yahoo.com



4338 Clear Way
Allentown, PA 18103
September 26, 2003

Mary Bender
Department of Agriculture
2301 Cameron St.
Harrisburg, PA 17110

Dear Ms. Bender,

It has come to the attention of the Lehigh Valley Kennel Club, that the AVMA has gotten a rule & regulation passed preventing the tattooing of lifetime licenses on dogs except by licensed veterinarians. The Lehigh Valley Kennel Club does not believe that the tattooing as presently done is sufficiently traumatic to the dog to require anesthesia and veterinary intervention. Anesthesia, for any reason, is always to be considered a health risk to the dog. We believe the new costs involved will result in a dramatic decrease in lifetime licensing as well as a decline in licensing in general.

The Lehigh Valley Kennel Club is a club that is promoting responsible dog ownership in our community. Every January, we sponsor a Canine Learning Experience. We have educational speakers, club booths, vendors and clinics. We attract approximately 5000 members of the community each year. One of our attractions is a tattoo clinic. We would like to invite you to attend our CLE on January 24, 2004 and observe, first hand, LVKC in action. We would especially welcome the observance of the tattoo clinic.

During our two-day event, the Bureau of Dog Law Enforcement is present to observe and answer questions regarding the PA dog laws as well as issuing yearly licenses for the five nearby counties. This booth is in close proximity to the tattoo clinic enabling them to witness first hand the procedure being used.

The Lehigh Valley Kennel Club would be pleased to work with you toward a mutually agreeable solution.

Sincerely,

A handwritten signature in cursive script that reads "Barbara E. Dunkling".

Barbara E. Dunkling
Corresponding Secretary

Cc: Paula Fehnel PA Federation Representative

Bender, Mary

From: Jill M. Paige [moose5@adelphia.net]
Sent: Friday, May 21, 2004 10:20 PM
To: mabender@state.pa.us
Subject: Lifetime license input



Hi Mary! I understand that a hearing concerning the lifetime license is to be held on the 24th. I won't be able to attend but I wanted to comment on the proposal as it stands. I believe I talked to you at the Canine Learning Experience event, held at the Allentown Fairgrounds, back in January. At that event there was a group tattooing dogs and you told me that you went over and observed the process. I walked by a few times, and as you observed, none of the animals were stressed or injured in the process of being tattooed. With that in mind, here are my comments.

I have assisted with the tattooing of dogs ranging from large Golden Retrievers and Chesapeake Bay Retrievers, to a 3 pound miniature Poodle. The equipment that was used was cleaned before and after each dog was tattooed, and the area that was tattooed was also cleaned and sterilized before the animal was tattooed. Very few of the dogs objected to the process, which took no more than 5 minutes per dog (the ones that did object were more worried about being restrained, not by the sound of the tattoo machine or the tattoo itself). After each dog was done they all happily popped off of the table and went on their merry way as if nothing had happened. Tattooing in this manner means that the dog is able to walk away from the procedure, fully alert and with all its faculties. The owner also doesn't need to worry about dealing with a dog coming out of anesthesia, nor do they need to withhold food and water beforehand as they would for a surgical procedure.

Requiring that this form of permanent identification be done by a licensed veterinarian is both ludicrous and a waste of time and money. Our local vets do not need the burden of having to schedule tattoo time when there are animals out there that need to be spayed/neutered, etc. I tattooed my first dog in the early 1990's. My next dog was tattooed in 1995 and I was surprised at the number of animals that had been tattooed up to that point (I believe about 300 animals in my county, Mifflin, were tattooed in those 4 or so years). My third dog was tattooed in 2002 and there were almost 1100 lifetime licenses issued up to that point. My first two were tattooed by a vet, but they were already under anesthesia for a surgery. The third dog was done by my friend, and I assisted. If the department mandates that tattoos are to be done by a "licensed veterinarian", in my opinion, sales of lifetime licenses will decrease. Is this what the state wants? And let's talk about how a tattoo, which is visible and does not require an instrument to read the number (which a microchip does), gives a lost pet a fighting chance to be returned to its owner. Or better yet, how a tattoo will deter an individual from stealing a pet to resale to a facility that will use it for research (and that is an area I do not wish to dwell in).

It would be all for finding a way to "certify" a person as someone who can do

the permanent tattoo for licensing of the dog. That certification could be something as simple as having the local Dog Law officer observe them tattoo a pet for proof that they know what they are doing. I realize that those individuals are busy with kennel licensing and enforcing rules and regulations, but this is something that only needs to be done once.

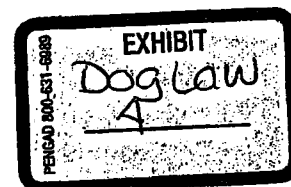
Putting a pet under any sort of anesthesia, for a simple procedure like a tattoo, is ridiculous and in some cases, risky. Many of us in the fancy even avoid vets who "put dogs under" for OFA (Orthopedic Foundation for Animals) x-rays. Why bother for something that takes roughly 5 minutes to complete?

I have only scratched the surface of this subject and I am sure representatives from the PA Federation of Dog Clubs will expound. Please reconsider the requirement that a tattoo must be administered by a licensed Veterinarian. I thank you for your time and look forward to the results of meeting. Thank you.

Till Paige
Yeagertown, PA (Mifflin County)

Bender, Mary

From: Karen Hertzog [lovedogs@fast.net]
Sent: Sunday, May 23, 2004 9:05 PM
To: • Bender, Mary
Subject: Tattooing of dogs



Mary

I meant to go over the revisions to the tattooing law and never found it in the paperwork shuffle here at my house and my dog training business. I just found it today and the deadline to have comments or letters to you was Thursday so I'm two days late and two dollars short but I just wanted to give my two cents anyway just in case.

Just an introduction of my life with dogs:

I began training dogs in 1977 when I took my Irish Setter to obedience class to become a good citizen and neighbor. I began as a volunteer apprentice instructor in 1978 and have trained thousands of people and their dogs ever since. I am involved in my community as the local coordinator for the dog blood donor program and am a member of and certified evaluator for Therapy Dogs International, where my dogs light up the lives of people in nursing homes, rehabilitation centers, etc. I became an approved American Kennel Club obedience judge in 1987 and enjoy judging obedience trials all over the country throughout each year. I currently am owned by 2 Irish Setters, a Greyhound that I rescued from the racetrack, an all black German Shepherd, and a Gordon Setter. I run South Mountain Dog Training Center in Emmaus, PA. www.southmountaindog.com

I have had ALL of my dogs tattooed the 5 minute painless way for 28 years. I remember having my first dog done in Allentown in January of 1977. He and all subsequent dogs I have owned were registered with National Dog Registry. Once the lifetime licensing became available in Pennsylvania, I knew of only one person that tattooed dogs in this area (not including the vets). That person was Wendy Ekhard and she lived about an hour down the line somewhere from me. The only time the Lehigh Valley people had to have their dogs tattooed the 5 minute painless way was at Canine Learning Experience at the end of January. Even though I didn't need to add one more thing to my plate, I decided the need was there for me to learn HOW to tattoo dogs as my dogs are not neutered because they are show dogs and I'm certainly not going to take them to the vet to have them put under anesthesia, have them tattooed, pay hospitalization, etc. So I now have been tattooing dogs for about 5 years the exact same way MY dogs were tattooed and I do it only for the dogs that have come through my classes. If the dog fusses at ALL, it's because they HATE being held down - not because the tattooing hurts. People who have been tattooed have said that it hurts - that's because in people, it has to penetrate 5

5/24/2004

layers of skin. With dogs it's only 2 layers. My dogs have gotten off a grooming table after just being tattooed and go right into the show ring with not even a slight irritation.

I have a whole page about tattooing on my website www.southmountaindog.com and just click on Tattooing. It is a much better way of tracing a dog back to it's owner as there are SO many microchips and not enough universal scanners available and in use to be of any good. I'd rather have something visible for Joe Blow down the street who finds my dog to see if he has the dog any length of time.

Hopefully the tattooing of dogs will not be a VET ONLY procedure anymore - it is NOT necessary and is very expensive and possibly dangerous if you have to put the dog under anesthesia for such a short and painless procedure.

Attached is a belated xmas card of my motley crew. All tattooed by this method and no worse for wear :o))

PS I started this to you yesterday and just finished it today so now it's 3 days late.

Have a tail waggin' day !!!

Karen
lovedogs@fast.net
www.southmountaindog.com

Karen Hertzog
Emmaus, PA

My name is Frederick Hawkins. I reside in Allentown, Pa.

Since 1985, I have owned 14 bullmastiffs; each had lifetime licenses. Until last year, when my two youngest dogs were microchipped, all were tattooed. I had these two microchipped because the Department of Agriculture's new regulations have made tattooing too expensive:

Attached to this submission are my documentation of tattoo charges by Lehigh Valley veterinarians. My survey was done in September 2003, six months after the Department of Agriculture monopolized veterinarians as lifetime license tattooists.

The data shows that lifetime dog license with a tattoo now costs on average \$182.42. The most expensive is \$395, the least expensive is \$82.50. (This low fee is not available to the general public but rather an arrangement between myself and my longtime veterinarian, Dr. Kim Kish.)

Additionally, in 1992 I assisted a tattooist at a dog show in Allentown. Over the course of two days, she tattooed approximately 4 dozen bullmastiffs. None required sedation. No dog refused to be tattooed. Save for my own dogs, that tattooist and I were complete strangers to these dogs.

My point is that I do not agree at all with the Department's assertions in the proposed rulemaking of March 14, 2003:

"It is not the intent of the Department to limit or restrict the persons available to breeders to either tattoo or implant a microchip in a dog as a means of permanent identification. The act provides that the Department is responsible for assuring the health and safety of dogs. The provisions requiring the permanent identification to be applied by a veterinarian or other person approved by the Department were intended to protect the dog from injury and unnecessary stress and to provide veracity. The Department has made two changes to the wording of the final-form regulations in response. First, the Department, after consulting with veterinarians at the Department, determined that the application of a tattoo should be limited to a licensed veterinarian. The tattoo must be applied to the right inner thigh of the hind leg of the dog. To effectuate this the dog must be laid on its side, the thigh held in the air and the tattoo applied. Dogs often object to the procedure while awake and could be harmed in the process. Therefore, it was the opinion of the veterinarians that dogs should, in most situations where a tattoo is being applied, be anesthetized or at the very least be in a controlled atmosphere where anesthesia is an available option and the proper techniques and controls can and will be used during the tattooing process."

It is my opinion that the veterinarian monopoly on tattoos was promulgated to benefit the veterinary profession. I suspect that the unnamed veterinarians at the Department included the recent President of the Pennsylvania Veterinary Medical Association, John I Enck, Jr VMD, who was in September 2003 also the Director, Bureau of Animal Health and Diagnostic Services, PA Dept of Ag.

Finally, it is my opinion that when this text is compared to the prior proposed rulemaking, that this particular change does not bear public scrutiny. It is in fact an outrageous example of the worst of government.

Frederick Hawkins 1020 N.6th Street Allentown, Penna 18102 610-432-5913

Attached: table one

Lehigh Valley Veterinarian survey, 3 pages.



Lehigh Valley Veterinary
tattoo charges

w/Co \$50 fee equivalent to
annual licenses

\$50.00	100	12
\$110.00	160	20
\$98.00	148	18
\$165.00	215	26
\$95.00	145	18
\$148.00	198	24
\$103.00	153	19
\$32.50	82.5	10
\$165.00	215	26
\$220.00	270	33
\$130.00	180	22
\$88.00	138	17
\$35.00	85	10
\$123.00	173	21
\$133.00	183	22
\$81.20	131.2	16
\$104.00	154	19
\$135.00	185	23
\$195.00	245	30
\$98.00	148	18
\$345.00	395	49
\$105.00	155	19
\$103.00	153	19
\$219.00	269	33
average \$128.36	\$178.36 average	
highest \$345.00	\$395.00 highest	
lowest \$32.50	\$82.50 lowest	
standard div. \$66.07		

increase over typical \$20 tattoo cost
641.8%
1725.0%
162.5%

microchip	tattoo	plus additionally unestimated	veterinary office	notes
	\$50.00	sedation, vaccinations	ABE Veterinary Hospital 2102 Walbert Ave Allentown 610-820-9224	tattoo sedation mandatory, multiple visits required, office refused to estimate anesthesia charges. Will vaccinate (and charge) without proof of prior vaccinations. One of their vets, Karen I Hess DVM, will tattoo without sedating dog first, but will charge more if sedation is necessary. "90% of dogs need anesthetizing" She has hours on Tues/Thurs & prefers AM appointments.
	\$110.00		Alburtis Animal Hospital 106 Main St N Alburtis 610-967-7387	tattoo sedation mandatory
	\$98.00		Allentown Animal Clinic 2640 Walbert Av 610-434-4470	tattoo sedation mandatory
\$25.00	\$165.00		Maple Hills Veterinary Hospital 852 Kressler Rd Allentown 610-395-3743	tattoo sedation mandatory
\$45.00	\$95.00	only an estimate	Blue Ridge Veterinary Clinic 1234 Myrtle Rd Walnutport 610-767-4896	tattoo sedation mandatory appointments may require more than a month lead time
	\$148.00		Cherryville Animal Hospital 496 Willow Rd. Walnutport 610-767-7505	tattoo sedation mandatory
\$35.00	\$103.00	micro at Beth office	Lehigh Valley Animal Hospital 6350 Tilghman St Allentown 610-395-3828 Bethlehem office. 7122 Beth Bath Pike Bethlehem 610-837-6188	tattoo sedation mandatory microchips: call bethlehem office. speak with Chris Svanda (husky rescue, licensed to do the chipping [Vet Tech]) registration included! Can do special chipping clinics website: www.siberescue.com
\$26.50	\$32.50	w/out sedation if poss	Country Doctor Vet Hospital 6855 Farrier Rd Orefield 610-395-0650	fees are for existing clients. New clients may have additional charges.
	\$165.00	typical fee w/sedation		
	\$220.00		North Saucon Animal Hospital Derr Beth VMD 3604 Route 378 Bethlehem 610-867-0800	tattoo sedation mandatory
\$47.00			East Penn Veterinary Accociates Inc 1020 Chestnut St Emmaus 610-967-2156	does not tattoo

\$73.00	\$130.00	Emmaus Animal Hospital 1301 Chestnut Emmaus 610-967-1512	tattoo sedation mandatory microchip registration is separate.
\$37.00	\$88.00 partial sedation (pill) full anesthesia is more	Hamilton Animal Care 6110 Hamilton Blvd Westcoosville 610-395-0707	tattoo sedation mandatory
\$35.00	\$35.00 w/out sedation if poss \$123.00 typical fee w/sedation	Kutztown Animal Hospital 7 South Kemp Rd Kutztown 610-683-5353	Will attempt to tattoo without sedation, fee rises to \$123.00 with sedation.
\$60.00	\$133.00 vaccinations	Lehighton Animal Hospital 104 S 3rd St Lehighton 610-377-5574	tattoo sedation mandatory, multiple visits required. Dog must stay at hosp overnight vaccination records required.
\$30.00	\$81.20	Little Gap Animal Hospital 2695 Little Gap Rd Palmerton 610-826-2793	tattoo sedation mandatory. Dog might have to stay overnight. about 24 days lead time on appts
	\$104.00	Pleasant Valley Animal Hospital 1945 State Road Pleasant Valley 610-346-7854	tattoo sedation mandatory
\$70.00	\$135.00 guesstimate	Quakertown Veterinary Clinic 2250 Old Bethlehem Pk 215 536 6245	tattoo sedation mandatory
\$65.00	\$195.00 vaccinations	St Francis Animal Hospital RR3 Tamaqua 570-386-5313	tattoo sedation mandatory. Vaccination record required.
	\$98.00 guesstimate	Silver Maple Veterinary Clinic 14993 Kutztown Rd Kutztown 610-683-7988	tattoo sedation mandatory? May require multiple visits, dog might stay overnight. Veterinarian will call back with better estimate. (note below however) Office is preparing to do microchipping. Pam, office manager, called 9/19/03 and did not wish information to be placed on some website. She will speak with the president of the company.
\$30.00		Upper Saucon Animal Hosp 2849 Pike Ave Coopersburg 610-797-5111	does not tattoo.
\$68.00	\$345.00	VCA Northside Animal Hospital 185 Mikron Rd Bethlehem 610-759-5922	tattoo sedation mandatory. May require multiple visits. Dog will stay at least 1/2 day.
	\$105.00	Walbert Animal Hosp 2061 Walbert Ave Allentown 610-434-7469	tattoo sedation mandatory. Does not microchip.

\$103.00

West Valley Animal Hospital
351 S Rte 100, Allentown 610-530-0600

tattoo sedation mandatory

\$72.00 \$219.00 vaccinations

Wright Veterinary Medical Center PC
3247 Wimmer Rd Bethlehem Twp 610-865-2611
Tattoo sedation mandatory. Vaccination record required including heartworm.
Actual sedation charge may be less (-\$50).

(last updated September 22, 2003)

Sally Birgl
39 White Oak Ct.]
Kempton, PA 19529
610-756-3573



I have been applying tattoos for over 20 years. There have been two occasions where I've needed to partially sedate an animal to apply the tattoo – those were my own dogs. There have also been two animals that I have not needed any assistance to apply the tattoo – those were also my own dogs. I have personally applied tattoos to over 300 dogs from Chihuahuas to rottweilers and pit bulls. During the 15 years that I have lived in Pennsylvania, I have done tattoos at the request of my boss, a veterinarian, kennel clubs and private citizens. Tattoos do not need to be done under anesthesia and they do not need to cost an excessive amount of money. This is a number permanently applied to a pet for identification purposes only.

The Pennsylvania Veterinary Medical Assoc. states that only a veterinarian can perform procedures that would implant something into an animal. I would suppose that the first thing that should be decided is what does implant mean. While it is true that we are putting something permanent in the skin of the animal, we are not leaving anything more than colored liquid, ink, in the skin. Licensed technicians are allowed to give injections under the skin or into muscle. What would be the difference?

People involved with dogs have been performing tattoos for many years with no harm done to the dog. Even today, it is not illegal for the general public to tattoo dogs. The PVMA does not bring people up on charges of violating the practice act if they apply a tattoo. The problem only comes in when the person is asked to apply a lifetime license number.

Most veterinarians require dogs to be under anesthesia when receiving a tattoo. When using anesthesia, these veterinarians also require blood work to check the liver and kidney functions to be sure the animal can handle the anesthesia. While I'm not saying the required blood work is wrong for anesthesia, I am saying that putting an animal under anesthesia for a tattoo is unnecessary. Not only does it put a financial burden on the owner, it puts the animal at risk for anesthesia induced side affects. The cost of the license is \$30 – \$50, anesthesia is roughly \$40 - \$70 and the blood work is \$30 - \$100, the tattoo itself costs \$25 - \$50. Given these numbers, anesthesia more than doubles the cost to obtain a lifetime license and tattoo the dog with the number.

My request is simple. Do not leave this in the hands of the veterinarian. Leave them free to perform other tasks more necessary to their profession (diagnosis and treatment of disease).

Sally Birgl
Kutztown Animal Hosp.
610-683-5353



**GOVERNOR'S OFFICE OF GENERAL COUNSEL
DEPARTMENT OF AGRICULTURE
2301 N. Cameron Street • Room 201
Harrisburg, Pennsylvania 17110-9408**

OFFICE OF CHIEF COUNSEL

Tel: 717-787-8744
Fax: 717-787-1270

September 17, 2004

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

**RE: Regulation #2-146 (IRRC #2431)
Amendments to Lifetime Licensure**

Dear Mr. Nyce:

The Independent Regulatory Review Commission (Commission) suggested revisions to a section of the final-omitted regulation #2-146 (relating to amending the lifetime licensure provisions of the Dog Law regulations) that was submitted for your review on September 1, 2004. At the Commission's recommendation in its September 10, 2004 letter, we are requesting that the review period for the regulation be tolled to revise the section listed below. Along with this memorandum we are simultaneously resubmitting the regulatory package with the changes and corrections requested in your September 10, 2004 letter to Department of Agriculture Secretary Dennis C Wolff.

With this letter, the Department has resubmitted Annex "A" incorporating the following changes suggested by the Commission:

1. A correction to the language contained in Section 21.51 (pages 2-11).
 - A. Subsection (e)(6) (page 6) has been modified to contain language that is consistent the language and approach taken by the Department in Section 21.51, subsections (c), (e)(1) and (e)(5). The language also provides flexibility if the State Board of Veterinary Medicine, through its regulations, authorizes a person other than a licensed veterinarian to implant microchips. The modified language is contained in the first sentence of Subsection 21.51(e)(6). Although it still references a veterinarian, it now contains language that would allow any other person

Robert E. Nyce, Executive Director
Re: Regulation #2-146 (IRRC #2431)
September 17, 2004
Page 2

authorized by the Veterinary Medicine Practice Act and the regulation promulgated thereunder to implant a microchip. This change is consistent with and within the scope of the recommendation suggested by the Commission.

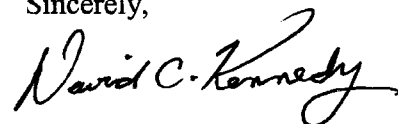
B. In addition, the Department modified language contained in sentences three and four of Subsection 21.51(e)(6). The modified language is the same as set forth in the first sentence of Subsection 21.51(e)(6) and serves to further clarify the intent of this subsection. The revised language is consistent with the language and approach taken by the Department in Section 21.51, subsections (c), (e)(1) and (e)(5) and consistent with the intent and scope of the recommendation suggested by the Commission.

2. Page numbers were added to the Annex A. As the Department made the Commissions' suggested changes to Section 21.51, it noted that the Annex A did not contain page numbers for easy reference. Although the Commission did not suggest this specific change, it does nothing to change the substantive provisions of the regulations and therefore is not outside the scope of the Commissions' recommendations.

3. The revised appendix contains the completed text for Section 21.51(e)(6) as well as the rest of the Annex A with page numbers. In addition, it includes a revised Preamble and a copy of the original Regulatory Analysis Form.

Please contact the Department of Agriculture if you have any questions or need additional information. Thank you for your review of this regulation.

Sincerely,

A handwritten signature in black ink that reads "David C. Kennedy". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

David C. Kennedy
Assistant Counsel

Robert E. Nyce, Executive Director
Re: Regulation #2-146 (IRRC #2431)
September 17, 2004
Page 3

RHC/Enclosures

cc: The Honorable Arthur D. Hershey (w/encls.)
The Honorable Peter J. Daley, II (w/encls.)
The Honorable Michael Waugh (w/encls.)
The Honorable Michael A. O'Pake (w/encls.)
The Honorable Dennis C Wolff, Secretary (w/encls.)
Robert A. Mulle, Esq., Office of Attorney General (w/encls.)
David J. DeVries, Esq., Office of General Counsel (w/encls.)
Donna Copper, Director, Governor's Policy Office (w/encls.)
Bill Wehry, Deputy Secretary, Department of Agriculture (w/encls.)
Mary Y. Bender, Director, Bureau of Dog Law, Department of Agriculture (w/encls.)

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 2-146
SUBJECT: Amendments to Lifetime Licensure
AGENCY: DEPARTMENT OF AGRICULTURE

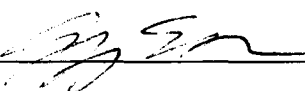

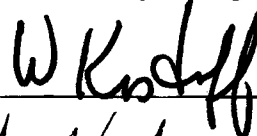
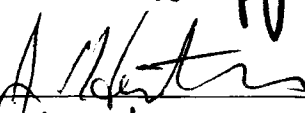
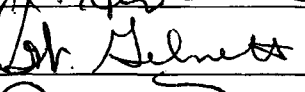
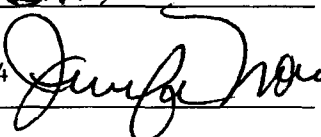
SEP 17 PM 3:30

REVIEW COMMISSION

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- X Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- X Delivery of Tolled Regulation
- a. X With Revisions b. Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
9/17/04		HOUSE COMMITTEE ON AGRICULTURE & RURAL HERSHEY AFFAIRS
9/17/04		DALEY
9/17/04		WAUGH SENATE COMMITTEE ON AGRICULTURE & RURAL AFFAIRS
9/17/04		O'PAKE
9/17/04		IRRC INDEPENDENT REGULATORY REVIEW COMMISSION
9/17/04		AG ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU

September 17, 2004