

Regulatory Analysis Form

This space for use by IRRC

(1) Agency

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

Final RAF

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

16A-5719

2565
IRRC Number:

INDEPENDENT REGULATORY
PERMISSION
COMMISSION

2017 MAY -3 AM 11:15

RECEIVED

(3) Short Title

Recordkeeping

(4) PA Code Cite

49 Pa. Code § 31.22

(5) Agency Contacts & Telephone Numbers

Primary Contact: **Teresa Lazo, Counsel**

State Board of Veterinary Medicine (717) 783-7200

Secondary Contact: **Joyce McKeever,**

Deputy Chief Counsel (717) 783-7200

(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 Board amends its regulation related to recordkeeping to further specify the requirements for veterinary medical records made by the Board's licensees, to set forth minimum standards for records of vaccination clinics and to set forth recordkeeping requirements for a veterinarian who retires or closes a veterinary practice.

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

Section 27.1 of the Veterinary Medicine Practice Act (63 P.S. § 485.27a), provides that a "veterinarian . . . shall, as required by regulation of the board, keep or cause to be kept a written record of all animals. . . ." The Board is updating and adding needed specificity to its existing regulation related to veterinary medical recordkeeping.

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.

No. The Board already has a regulation related to recordkeeping. The Board is updating its regulation and conforming it to section 27.1 of the act, which was added by Act 167 of December 9, 2002.

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

The regulation will more adequately inform veterinarians of the Board's recordkeeping standards and will provide guidelines for veterinary medical records for vaccination clinics. In addition, the rulemaking will inform veterinarians of recordkeeping requirements when a veterinarian retires or closes a veterinary practice.

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

Over the past 2 years, the Board has seen a significant increase in disciplinary cases. In almost every disciplinary case, the Board has found that its licensee has not conformed to the acceptable and prevailing standards of veterinary medical practice with respect to recordkeeping. The Board has determined that it must add further specificity to its existing regulation related to recordkeeping. In many ways, animal health and human health are interrelated; insufficient veterinary medical records may negatively impact an animal's ability to receive appropriate treatment and may hinder the Board's ability to review cases. Moreover, insufficient veterinary medical records may have a negative impact on human health if an animal has contracted a disease with zoonotic potential.

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

The general public and regulated practitioners will benefit from a regulation that more clearly sets forth the Board's expectations for veterinary medical recordkeeping.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

The Board has not identified any group or subgroup that will be adversely affected by the regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

There are approximately 3,888 licensed veterinarians in the Commonwealth. All veterinarians will be expected to comply with the regulation; however, the Board believes that the majority of its licensees are already adhering to the standards identified in the rulemaking.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The proposed rulemaking was published in the Pennsylvania Bulletin so that interested parties could comment. No comments were received.

(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.

There are little or no costs or savings to the regulated community associated with compliance with the rulemaking.

Regulatory Analysis Form

(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.

Local governments will not be affected by the rulemaking.

(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.

State government will not be affected by the rulemaking.

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.

	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010
SAVINGS:	\$NA	\$NA	\$NA	\$NA	\$NA	\$NA
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:	0	0		0		0
Regulated Community	0	0		0		0
Local Government						
State Government						
Total Costs	0	0		0		0
REVENUE LOSSES:	NA	NA	NA	NA	NA	NA
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

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

See responses to questions (17)-(19).

Regulatory Analysis Form

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

Program	FY -01-02	FY -02-03	FY -03-04	Budgeted 04-05
State Board of Veterinary Medicine	\$425,535.80	\$473,960.85	\$532,146.51	\$596,000.00

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

There are little or no costs associated with the regulation. The benefits to animals and the public favor adding the needed specificity to the Board' existing regulation.

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

No non-regulatory approaches were considered because section 27.1 of the Veterinary Medicine Practice Act (63 P.S. §485.27a) requires a regulatory approach.

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

See paragraph 22 above.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

The provisions are consistent with federal standards related to veterinary medical records for production animals.

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

Many other states have regulations related to recordkeeping that are as specific, or more specific, than the Board's rulemaking. The rulemaking will enable veterinarians to provide better care to animals, particularly those that have been transferred to their care by ensuring a level of standardization in veterinary medical recordkeeping. The rulemaking will not put Pennsylvania at a competitive disadvantage.

(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.

The Board provides an opportunity for public input into its activities, including its rulemaking proposals, at its regularly scheduled monthly meetings. The dates, times and places of the Board's meetings are available at the Department of State's website, www.dos.state.pa.us.

Regulatory Analysis Form

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

The rulemaking does not change existing recordkeeping requirements. Rather, the rulemaking puts the existing requirements into the Board's regulations to ensure that all licensees conform to existing standards and to notify the public of the standards for veterinary medical recordkeeping.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The Board is aware that production animal veterinarians are subject to Federal regulations related to their recordkeeping practices. The Board has considered these regulations in fashioning this proposed rulemaking. The Board has made special provision for production animal veterinarians in paragraph (6) of the regulation, related to documenting client communication.

The Board is aware that laboratory animal veterinarians create and maintain veterinary medical records for specific purposes in conjunction with the use of the animals and guidelines of the facility sponsoring research. Therefore, the Board has exempted laboratory animal veterinarians from this rulemaking.

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

The amendment will be effective on publication of the final-form regulation in the Pennsylvania Bulletin.

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

As part of its annual review process, the Board will review the effectiveness of this regulation.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

RECEIVED

2007 MAY -3 AM 11:15

INDEPENDENT REGULATORY
REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

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

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

Copy below is approved as
to form and legality.
Executive of Independent
Agencies.

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Veterinary Medicine
(AGENCY)

[Signature]
BY:

Andrew C. Clark

DOCUMENT/FISCAL NOTE NO. 16A-5719

DATE OF ADOPTION: _____

APR 17 2007

DATE OF APPROVAL

DATE OF APPROVAL

BY: *[Signature]*
Thomas J McGrath, D.V.M.

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

TITLE: Chairman
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

- Check if applicable
Copy not approved.
Objections attached.
- Check if applicable. No Attorney
General approval or
objection within 30 day
after submission.

FINAL RULEMAKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF VETERINARY MEDICINE
49 PA. CODE, § 31.22
RECORDKEEPING

The State Board of Veterinary Medicine (Board) hereby amends § 31.22 (relating to recordkeeping), to read as set forth in Annex A.

A. Effective Date

The amendments will be effective upon final-form publication in the *Pennsylvania Bulletin*.

B. Statutory Authority

Section 27.1 of the Veterinary Medicine Practice Act (act) (63 P.S. § 485.27a) requires the Board to promulgate regulations setting forth recordkeeping standards.

C. Background and Purpose

The Board has determined that there is a need for greater specificity in its regulations relating to veterinary medical recordkeeping. These amendments are intended to provide more specific requirements relating to the contents of veterinary medical records; to further define acceptable standards of veterinary medical recordkeeping; and to provide notice requirements for veterinarians who are retiring or closing their veterinary practices.

D. Summary of Comments to Proposed Rulemaking and the Board's Response

Proposed rulemaking was published in the *Pennsylvania Bulletin* on September 30, 2006, at 36 Pa.B. 5984, which provided for 30 days of public comment. No public comments were received. The Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) as part of their review under the Regulatory Review Act. The following is a summary of those comments and the Board's response.

The HPLC asked whether the Board's rulemaking should include citations to Federal regulations regarding the recordkeeping responsibilities of veterinarians who provide services for production animals. Because Federal regulation of production animals and the veterinary care provided to these animals is so extensive, the Board has added a general statement to the final rulemaking that references Title 9 of the Code of Federal Regulations. Title 9 includes subparts on birds, ruminants, and swine. In addition, Title 9 includes testing and recordkeeping requirements regarding particular diseases, such as tuberculosis and scrapie.

The HPLC asked, with respect to the final sentence of § 31.22(1), which requires notation on a veterinary medical record of the treating individual after each chart entry, whether the term "individual" could be both a veterinarian and a veterinary technician and if so, if the Board would consider using the term "licensee" instead of "individual." Depending on the treatment, a veterinary medical treatment may be performed by a veterinarian, a certified veterinary technician or an

unlicensed veterinary assistant. Because the term "licensee" is underinclusive, the Board determined that the term "individual" should be retained.

The HPLC made several comments regarding drafting which were corrected by the editors of *Pennsylvania Bulletin*. The Board agrees with the subtitles added by the editors at § 31.22(4) ("communication with client") and § 31.22(5) ("retention of records"). The Board also agrees with the editors regarding the use of numbered paragraphs rather than alphabetized subsections.

The HPLC noted that the Board used the term "patient" and "animal" in various parts of the rulemaking and inquired whether one term should be used consistently. The Board has amended the final rulemaking to use the term "patient" throughout.

Finally, the HPLC questioned § 31.32(10), noting that the first sentence established a bright line rule that notice must be given to clients at least 30 days in advance of a planned retirement or closing of a veterinary facility but that the last sentence stated that if prior notice was not possible, the successor veterinarian was required to provide notice. The HPLC asked the Board to provide guidance regarding (1) when the 30-day notice is not required and (2) under what circumstance(s) the successor veterinarian will have to provide notice.

The 30-day notice is always required for planned events, such as retirement or the closing of a veterinary practice. However, the 30-day notice would not be required when it is not possible, such as in the case of an unplanned closure due to acute illness or death of a veterinarian. A veterinarian who does not provide at least 30 days advance notice when advance notice was possible would be subject to discipline under section 21(1) of the act (63 P.S. § 485.21(1)) for willful violation of a Board regulation. The successor veterinarian is required to provide notice whenever prior notice was not provided.

The IRRRC submitted comments to the Board on November 29, 2006. IRRRC noted three concerns. First, IRRRC also commented that the Board appeared to use the terms "patient" and "animal" interchangeably throughout the regulation and recommended that one term be used consistently. This concern has been addressed.

Second, IRRRC asked for further clarification of a "problem-oriented medical record" and specifically inquired what methods are acceptable to the Board. Any problem-oriented medical record is acceptable to the Board. Recordkeeping systems with different nomenclature that include record of subjective and objective assessment, treatment plan and documentation of treatment provided will be acceptable to the Board.

Finally, IRRRC agreed with the HPLC comments regarding citation to Federal regulations related to veterinary medical recordkeeping for production animals and recommended a cross reference be added to the Board's rulemaking. The Board has added the requested information.

E. Fiscal Impact

The Board believes that the final-form rulemaking should have little or no fiscal impact on licensees as the regulation represents what is already the acceptable and prevailing standard of practice with regard to veterinary medical recordkeeping. Veterinarians who are not practicing in accordance with recognized standards may experience some costs in conforming their recordkeeping to the requirements set forth in the regulation. The Board may experience some costs in prosecuting veterinarians whose recordkeeping does not conform to the regulation. There are no costs to other political subdivisions as the Board is self-supporting.

F. Paperwork Requirements

Veterinarians who are not practicing in accordance with recognized standards may experience additional paperwork requirements to practice in accordance with the regulation. Neither the Board nor any political subdivisions will experience additional paperwork requirements as a result of the regulation.

G. Sunset Date

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

H. Regulatory Review

Under Section 5(a) of the Regulatory Review Act, (71 P.S. §745.5(a)), on September 20, 2006, the Board submitted a copy of the notice of proposed rulemaking, published at 36 Pa.B. 5984 (September 30, 2006), to IRRC and the Chairpersons of the House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on _____, 2007, the final-form rulemaking was approved by the HPLC. On _____, 2007, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC approved the final-form rulemaking on _____, 2007.

I. Additional Information

Further information may be obtained by contacting J. Robert Kline, Administrative Assistant, State Board of Veterinary Medicine, P.O. Box 2649, Harrisburg, PA 17105-2649, or from the Department website, www.dos.state.pa.us.

J. Findings

The Board finds that:

1. Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240), (45 P.S. §§ 1201 – 1202), and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 – 7.2.
2. A public comment period was provided as required by law and all comments were considered.
3. This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing act identified in this Preamble.

The Board, acting under its authorizing statute, orders that:

- (A) The regulation of the Board at 49 Pa. Code § 31.22 is amended to read as set forth in Annex A.
- (B) The Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General as required by law.
- (C) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (D) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

Thomas J. McGrath, D.V.M.
Board Chairman

Annex A

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS
PART I. DEPARTMENT OF STATE
Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS
CHAPTER 31. STATE BOARD OF VETERINARY MEDICINE**

PROFESSIONAL CONDUCT

§ 31.22. Recordkeeping [rationale].

Veterinary medical records serve as a basis for planning ~~animal~~ PATIENT care and as a means of communicating among members of the veterinary practice. The records furnish documentary evidence of the ~~animal's~~ PATIENT'S illness, hospital care and treatment and serve as a basis for review, study and evaluation of the care and treatment rendered by the veterinarian. A veterinary medical record shall be kept in a problem-oriented or similar format that allows any veterinarian, by reading the record, to proceed with the care and treatment of the ~~animal~~ PATIENT and allow the Board or other agency to determine the advice and treatment recommended and performed. This section does not apply to laboratory animal practice.

- (1) [*Record retention.* A veterinarian shall maintain veterinary medical records of an animal so that any veterinarian coming into a veterinary practice may, by reading the veterinary medical record of a particular animal, be able to proceed with the proper care and treatment of the animal. Records shall be maintained for a minimum of 3 years from the date that the animal was last treated by the veterinarian.]

Record required. A veterinarian shall maintain a separate veterinary medical record for each patient, herd or group, as appropriate, which accurately, legibly and completely reflects the evaluation and treatment of the patient or patients. The veterinary medical record must identify the treating individual after each chart entry.

(2) Identity of patient. The veterinary medical record must include, at a minimum, the following information to identify the patient, herd or group:

(i) Client identification.

(ii) Appropriate patient identification, which may include species, breed, age, sex, weight, name or identity number or numbers, color and identifying markings, and whether neutered, spayed or intact.

(3) Minimum content of record. PRODUCTION ANIMAL VETERINARIANS SHALL COMPLY WITH ALL FEDERAL RECORDKEEPING REQUIREMENTS, INCLUDING REQUIREMENTS IN TITLE 9 OF THE CODE OF FEDERAL REGULATIONS. ~~The veterinary medical record~~ VETERINARY MEDICAL RECORDS FOR OTHER ANIMALS must include:

(i) Vaccination history.

(ii) Previous medical history, presenting symptoms and complaint.

(iii) Date of each examination.

- (iv) Diagnosis.
 - (v) Results and findings of pathological or clinical laboratory examination.
 - (vi) Findings of radiological examination.
 - (vii) Medical or surgical treatment.
 - (viii) Other diagnostic, corrective or therapeutic procedures.
 - (ix) Documentation of drugs administered, prescribed or dispensed, including dosage.
 - (x) Documentation of surgical and dental procedures, including type and dosage of anesthesia, and dental charting.
- (4) Communication with client. The veterinary medical record of any ~~animal~~ PATIENT, except a production animal, shall document communication with the client, including the client's consent to or rejection of recommended diagnostic tests, treatments and drugs.
- (5) Retention of records. Records shall be maintained for a minimum of 3 years from the date that the ~~animal~~ PATIENT was last treated by the veterinarian.

[(2)] (6) * * *

[(3)](7) *Radiographs.* A radiograph is the property of the veterinary practice that originally ordered it to be prepared. Radiographs shall be properly identified by hospital name, date, name of client, name of ~~animal~~ PATIENT and positional marker. A radiograph shall be released upon the written request of another veterinarian who has the written authorization of the client. The radiograph shall be returned to the veterinary practice that originally ordered it to be prepared within a reasonable time.

[(4)](8) *Release of information to clients.* A veterinarian shall release a summary or a copy of the veterinary medical records of an ~~animal~~ A PATIENT to the client [upon] within 3 business days of receipt of the client's written request. A veterinarian may charge a reasonable fee for duplicating veterinary medical records and for preparation of veterinary medical record file summaries for release to clients. A veterinarian may not withhold the release of veterinary medical records or summaries to clients for nonpayment of a professional fee. The release of veterinary medical records or summaries to clients under these circumstances does not constitute a waiver by the veterinarian of the fee claimed.

(9) *Veterinary medical records for vaccination clinics.* A veterinarian providing veterinary medical services to the public for a public health vaccination clinic or an animal health vaccination clinic shall prepare a veterinary medical record that includes, at a minimum, an identification of the client and patient, the vaccine lot number, and the date and dosage administered. A veterinarian who provides veterinary medical services to a vaccination clinic shall provide

a means for clients to obtain advice pertaining to post-vaccine reactions for the 24-hour period immediately following the time of vaccination.

- (10) *Veterinary records of retiring veterinarian or a veterinary practice that is closing.* A veterinarian shall notify clients, in writing, at least 30 days prior to the date of a planned retirement or closing of a veterinary practice. The written notice must include instructions on how to obtain copies of veterinary medical records from the veterinarian or other custodian of the records and the name, address and telephone number of the person purchasing the practice, if applicable. Veterinary medical records must remain available to clients for a period of 3 years after the date the veterinarian retires or the practice is closed. If prior notice could not be provided, a successor veterinarian shall notify clients within 60 days of the date the successor takes over the practice.

Annex A
TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS
PART I. DEPARTMENT OF STATE
Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS
CHAPTER 40. STATE BOARD OF PHYSICAL THERAPY
Subchapter A. PHYSICAL THERAPISTS
GENERAL PROVISIONS

§ 40.5. Fees.

The following fees are charged by the Board:

Physical therapist:

*	*	*	*	*	
Biennial renewal.....					[\$ 37]90

*	*	*	*	*	
Biennial renewal of Certificate to Practice Physical Therapy without a referral.....					[\$ 37]45

Physical therapist assistants:

*	*	*	*	*	
Biennial renewal of registration.....					[\$ 20]45

[Pa.B. Doc. No. 06-1906. Filed for public inspection September 29, 2006, 9:00 a.m.]

STATE BOARD OF VETERINARY MEDICINE

[49 PA. CODE CH. 31]

Recordkeeping

The State Board of Veterinary Medicine (Board) proposes to amend § 31.22 (relating to recordkeeping rationale) to read as set forth in Annex A. The proposed rulemaking provides greater specificity to the Board's existing recordkeeping regulation. In addition, the proposed rulemaking sets forth the proper procedures for a veterinarian who is retiring or closing an office. Finally, the proposed rulemaking provides mandates for veterinary medical records from vaccine clinics.

Effective Date

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

Statutory Authority

Section 27.1 of the Veterinary Medicine Practice Act (act) (63 P. S. § 485.27a) requires the Board to promulgate regulations setting forth recordkeeping standards.

Background and Need for Amendment

Through the adjudication of numerous disciplinary cases over the past several years, the Board has determined the need to set additional requirements in its regulation of veterinary medical recordkeeping.

The reasons for this proposed rulemaking are threefold. First, the proposed rulemaking mandates contents of

medical records and further defines acceptable standards of veterinary medical recordkeeping practice in this Commonwealth. Second, the Board proposes minimum standards of records when veterinarians provide service in vaccination clinics. Finally, the Board proposes to add paragraph (10) to provide mandates for veterinarians who are retiring or closing their veterinary practices.

The Board is aware of the public health benefits of vaccination clinics. Public health vaccination clinics inoculate animals against diseases, such as rabies, that pose a threat to human health. Public health clinics are relatively common in this Commonwealth and serve to promote public health and safety. Animal health vaccination clinics inoculate animals against diseases, such as distemper, that pose a threat to animal health. Some animal owners do not obtain routine animal health vaccinations at a veterinary office. Thus, animal health vaccination clinics, while not ideal, serve to promote animal health and welfare.

Veterinarians have expressed confusion over the minimum recordkeeping requirements for these clinics. The proposed rulemaking recognizes that the acceptable and prevailing standards of practice for recordkeeping for public health and animal health vaccination clinics require only a minimum of information as compared to the entire veterinary medical record, of which vaccine history is but one part. The proposed rulemaking protects the public by mandating that a veterinarian who participates in a vaccination clinic provide a means for clients to obtain information should an adverse reaction occur.

Finally, the Board has received numerous inquiries regarding a veterinarian's recordkeeping responsibilities when closing a veterinary practice, which the Board also addresses in this proposed rulemaking.

Description of Proposed Amendments

The general requirement that records be kept so that a veterinarian may, by reading the record, proceed with the proper care and treatment of an animal has been moved from current § 31.22(1). The proposed rulemaking would adopt the problem oriented medical record (POMR) or similar recordkeeping system. POMR is a recognized standard form of all medical recordkeeping. It involves creation of a record listing subjective and objective data, assessment and evaluation and a treatment plan. POMR recordkeeping is taught in all schools of veterinary medicine as the standard for veterinary practice. The Board also proposes language to note that the Board reviews veterinary medical records to determine the advice given and treatment recommended and performed by a veterinarian. Current paragraph (1) is deleted.

Proposed paragraph (1) is a general provision that requires a separate veterinary medical record for each patient, herd or group, as appropriate. This requirement accounts for differences in practice between veterinarians whose patients are companion animals and veterinarians whose patients are production animals. Proposed paragraph (1) also requires that veterinary medical records be accurate, legible and complete, as more fully set forth in proposed paragraph (3). Finally, proposed paragraph (1) requires that the veterinary medical record identify the treating individual after each entry. This requirement assists in communication among members of a practice or a subsequent treating veterinarian and allows for accurate review of the treatment provided to an animal.

Proposed paragraph (2) sets forth specific requirements for identifying the patient, herd or group. This paragraph is drafted to apply to both companion and production animals.

Proposed paragraph (3) sets forth the specific requirements for documenting the animal's medical history, tests, diagnoses and treatment provided.

Proposed paragraph (4) sets forth requirements for documentation of client communication. This documentation is not mandated for production animal records. Production animal owners or herdsmen are generally knowledgeable and veterinarians for production animals often communicate telephonically with clients when veterinarians are not in offices where they could easily place notes in the clients' records. In these cases, the customary and acceptable practice is for veterinarians to record only that information that is medically significant. In addition, Federal law and regulation stringently regulate the recordkeeping requirements for these veterinarians. The Board concluded that it was not necessary to mandate that client communication be documented in production animal medical records.

The Board proposes to move the current mandate that veterinarians retain records for 3 years from current paragraph (1) to proposed paragraph (5).

The Board proposes to renumber paragraphs (2)—(4) as paragraphs (6)—(8). In proposed paragraph (8), the Board provides a time frame for the provision of veterinary medical records. The Board determined that a period of 3 business days from receipt of the client's written request for records was reasonable and would be workable even if the veterinarian were out of the office when the request was sent.

The Board proposes to add paragraph (9) regarding veterinary medical records for vaccination clinics. The proposed rulemaking balances the need for pertinent information with the need for brevity in the vaccination clinic setting by requiring only the most important information be recorded in that setting.

The Board proposes to add paragraph (10) to provide mandates for veterinarians who are retiring or closing their veterinary practices.

Regulated Communities

In drafting this proposed rulemaking, the Board solicited input from the State and regional veterinary medical associations. In addition, the Board specifically solicited input from production animal veterinarians.

Fiscal Impact

The proposed rulemaking should not have any fiscal impact on the Board's licensees or any other public or private group or sector.

Paperwork Requirements

The proposed rulemaking sets forth the existing acceptable standards of practice for recordkeeping. The proposed rulemaking does not enlarge the time that veterinarians must maintain veterinary medical records. There are not additional paperwork requirements created by the proposed rulemaking.

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on September 20, 2006, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional

Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

Public Comment

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

THOMAS J. MCGRATH, D.V.M.,
Chairperson

Fiscal Note: 16A-5719. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 31. STATE BOARD OF VETERINARY MEDICINE

PROFESSIONAL CONDUCT

§ 31.22. Recordkeeping [rationale].

Veterinary medical records serve as a basis for planning animal care and as a means of communicating among members of the veterinary practice. The records furnish documentary evidence of the animal's illness, hospital care and treatment and serve as a basis for review, study and evaluation of the care and treatment rendered by the veterinarian. **A veterinary medical record shall be kept in a problem-oriented or similar format that allows any veterinarian, by reading the record, to proceed with the care and treatment of the animal and allow the Board or other agency to determine the advice and treatment recommended and performed. This section does not apply to laboratory animal practice.**

(1) [*Record retention.* A veterinarian shall maintain veterinary medical records of an animal so that any veterinarian coming into a veterinary practice may, by reading the veterinary medical record of a particular animal, be able to proceed with the proper care and treatment of the animal. Records shall be maintained for a minimum of 3 years from the date that the animal was last treated by the veterinarian.]

Record required. A veterinarian shall maintain a separate veterinary medical record for each patient, herd or group, as appropriate, which accurately, legibly and completely reflects the evaluation and treatment of the patient or patients. The

veterinary medical record must identify the treating individual after each chart entry.

(2) *Identity of patient.* The veterinary medical record must include, at a minimum, the following information to identify the patient, herd or group:

(i) Client identification.

(ii) Appropriate patient identification, which may include species, breed, age, sex, weight, name or identity number or numbers, color and identifying markings, and whether neutered, spayed or intact.

(3) *Minimum content of record.* The veterinary medical record must include:

(i) Vaccination history.

(ii) Previous medical history, presenting symptoms and complaint.

(iii) Date of each examination.

(iv) Diagnosis.

(v) Results and findings of pathological or clinical laboratory examination.

(vi) Findings of radiological examination.

(vii) Medical or surgical treatment.

(viii) Other diagnostic, corrective or therapeutic procedures.

(ix) Documentation of drugs administered, prescribed or dispensed, including dosage.

(x) Documentation of surgical and dental procedures, including type and dosage of anesthesia, and dental charting.

(4) *Communication with client.* The veterinary medical record of any animal, except a production animal, shall document communication with the client, including the client's consent to or rejection of recommended diagnostic tests, treatments and drugs.

(5) *Retention of records.* Records shall be maintained for a minimum of 3 years from the date that the animal was last treated by the veterinarian.

[(2)] (6) * * *

[(3)] (7) * * *

[(4)] (8) *Release of information to clients.* A veterinarian shall release a summary or a copy of the veterinary medical records of an animal to the client [upon] within 3 business days of receipt of the client's written request. A veterinarian may charge a reasonable fee for duplicating veterinary medical records and for preparation of veterinary medical record file summaries for release to clients. A veterinarian may not withhold the release of veterinary medical records or summaries to clients for nonpayment of a professional fee. The release of veterinary medical records or summaries to clients under these circumstances does not constitute a waiver by the veterinarian of the fee claimed.

(9) *Veterinary medical records for vaccination clinics.* A veterinarian providing veterinary medical services to the public for a public health vaccination clinic or an animal health vaccination clinic shall prepare a veterinary medical record that includes, at a minimum, an identification of the client and patient, the vaccine lot number, and the date and dosage administered. A veterinarian who provides veterinary medical services to a vaccination clinic shall provide a means for clients to obtain advice pertaining to postvaccine reactions for the 24-hour period immediately following the time of vaccination.

(10) *Veterinary records of retiring veterinarian or a veterinary practice that is closing.* A veterinarian shall notify clients, in writing, at least 30 days prior to the date of a planned retirement or closing of a veterinary practice. The written notice must include instructions on how to obtain copies of veterinary medical records from the veterinarian or other custodian of the records and the name, address and telephone number of the person purchasing the practice, if applicable. Veterinary medical records must remain available to clients for 3 years after the date the veterinarian retires or the practice is closed. If prior notice could not be provided, a successor veterinarian shall notify clients within 60 days of the date the successor takes over the practice.

[Pa.B. Doc. No. 06-1907. Filed for public inspection September 29, 2006, 9:00 a.m.]

PUBLIC COMMENTATORS – 16A-5719 RECORDKEEPING

There were no public comments received with regard to the proposed rulemaking of the State Board of Veterinary Medicine (16A-5719 - Recordkeeping) published in the *Pennsylvania Bulletin* on September 30, 2006, at 36 Pa.B. 5984.



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF VETERINARY MEDICINE

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-7134

May 3, 2007

The Honorable Arthur Coccodrilli, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Final Regulation
State Board of Veterinary Medicine
16A-5719: Recordkeeping

Dear Chairman Coccodrilli:

Enclosed is a copy of a final rulemaking package of the State Board of Veterinary Medicine pertaining to recordkeeping.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas J. McGrath, D.V.M." with a stylized flourish at the end.

Thomas J. McGrath, D.V.M., Chairperson
State Board of Veterinary Medicine

TJM/TL:klh

Enclosure

cc: Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
Albert H. Masland, Chief Counsel
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Herbert Abramson, Senior Counsel in Charge
Department of State
Teresa Lazo, Counsel
State Board of Veterinary Medicine
State Board of Veterinary Medicine

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

I.D. NUMBER: 16A-5719
 SUBJECT: RECORDKEEPING
 AGENCY: DEPARTMENT OF STATE
 STATE BOARD OF VETERINARY MEDICINE

TYPE OF REGULATION

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

RECEIVED
 2007 MAY -3 AM 11:15
 INDEPENDENT REGULATORY
 REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
5/3/07	<i>Alexander</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
5/3/07	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
5/3/07	<i>Cheryl York</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)