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Regulatory Analysis Form		This space for use by IRRRC FEB 21 AM 11:21 INDEPENDENT REGULATORY REVIEW COMMISSION
(1) Agency Department of State, Bureau of Professional and Occupational Affairs, State Board of Veterinary Medicine		IRRC Number: 2594
(2) I.D. Number (Governor's Office Use) 16A-5721		
(3) Short Title Professional Conduct		
(4) PA Code Cite 49 Pa. Code § 31.21, Principles 1, 3 and 7	(5) Agency Contacts & Telephone Numbers Primary Contact: Teresa Lazo-Miller, Counsel State Board of Veterinary Medicine (717) 783-7200 Secondary Contact: Joyce McKeever, Deputy Chief Counsel (717) 783-7200	
(6) Type of Rulemaking (check one) <input checked="" type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking <input type="checkbox"/> Omitted	(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and nontechnical language. The Board proposes to amend its Rules of Professional Conduct, specifically Principle 1, related to competency; Principle 3, relating to unprofessional conduct and Principle 7, relating to veterinarian-client-patient relationships. The amendments would provide needed clarification of conduct the Board deems to be unprofessional and establishes and clarifies a veterinarian's duties with respect to clients and patients.		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. Section 5(2) of the Veterinary Medicine Practice Act (63 P.S. § 485.5(2)) authorizes the Board to adopt rules and regulations of professional conduct appropriate to establish and maintain a high standard of integrity, skills and practice in the profession of veterinary medicine.		

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 proposed rulemaking is not mandated by any federal or state law, regulation or court order.

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

The regulation would update the Board's professional conduct regulations to ensure that veterinarians conduct themselves in accordance with current standards.

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

The public may be harmed by absence of appropriate regulation in the areas of professional conduct and veterinary-client-patient relationships. The public should not be subject to unprofessional conduct and the Board's licensees are entitled to a clear statement of the standards of conduct to which they are held. The public is also entitled to have all veterinarians conduct themselves, in their relationships with clients and patients, in accordance with the Board's standards of conduct.

(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 professional conduct and veterinarian -client-patient relationships.

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 3,325 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.

In drafting the proposed rulemaking, the Board sought input from the Department of Agriculture, Animal Health and Diagnostic Commission; the Pennsylvania Veterinary Medical Association; and other parties who had expressed an interest in the subject matter.

(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.

It is extremely difficult to quantify the potential additional cost to licensees. Many veterinarians already assume this cost when the owner is unknown or unable to pay. The potential cost is widely variable depending on the animal's condition. It is difficult to estimate the number of cases a licensee might see where the owner is not known or is unable to pay for veterinary services. Finally, many veterinarians provide emergency services and are able to later work out a payment plan with the owner.

The Board estimates that the average licensee will see 1 to 2 emergency cases each year where the owner is unknown and is never found or where the owner indicates an inability to pay, even over time. The Board estimates it may cost from \$20 to \$500 to provide basic emergency care, including IV fluids, pain medications and radiographs to diagnose and stabilize an animal. Based on the collective experience of its members, the Board finds that the majority of emergency cases will be create costs in the lower end of the cost range, with an estimate of \$150 per emergency.

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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 would not be affected by this proposed 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 would not be affected by this proposed rulemaking.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010	2010-2011
SAVINGS:	\$NA	\$NA	\$NA	\$NA	\$NA	\$NA
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:	0	0		0		0
Regulated Community	0	0	54,000	109,350	109,350	109,350
Local Government						
State Government						
Total Costs	0	0	54,000	109,350	109,350	109,350
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.

No costs would accrue in the current or subsequent years prior to the final publication of the rulemaking. For 2007-2008, the Board estimates the rulemaking to become effective halfway through that period. The responses to question (17) sets forth the rationale for the estimate for subsequent years.

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	359,780.14	397,604.84	423,064.31	457,000.00

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

The rulemaking benefits the public by ensuring that veterinarians conduct themselves in accordance with standards of professional conduct appropriate for professionals. The rulemaking benefits the public by mandating that veterinarians provide complete explanations of the medical alternatives for care of the public's animals. Finally, the rulemaking benefits the public by ensuring that animal owners will be able to obtain at least a basic level of care – either basic lifesaving procedures or humane destruction – of their animals in an emergency situation.

The Board believes that the relatively minimal cost to veterinarians in complying with the rulemaking is outweighed by the benefits to the public.

(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.

The Board considered various drafts of the rulemaking and carefully considered input from the public. The Board considered a request to mandate that veterinarians explain risks and side effects of certain drugs by providing a "client information sheet" regarding dispensed drugs. The Board found that a wider would better serve the public. The Board's rulemaking mandates that veterinarians provide clients with the benefits, risks and side effects of treatment alternatives. This provision applies to both drug treatment and other veterinary medical treatments.

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.

There are no provisions in the rulemaking that are more stringent than federal standards.

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

The rulemaking is comparable to regulation of professional conduct in other states and 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 regulatory 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. In addition, the Board has met with legislative staff members to address concerns raised by the public and has extended the time for public comment on its draft rulemaking in order to fully address all concerns.

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 proposed 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 has not identified any groups that have particular needs in relation to the 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.

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The Board has 2,878 licensees with addresses in Pennsylvania. Of this number, the Board estimates that 65% practice in an area (such as small animal medicine) that would be affected by the proposal, or 1871 licensees. Of this number, the Board estimates that 75% already assume the cost that would be imposed by the rulemaking. Thus, the Board estimates that 468 licensees would be affected by the proposal. The Board therefore estimates the annual cost to be \$109,350, or \$38 per licensee. The proposal does not prevent a veterinarian from pursuing civil remedies against an owner for repayment for services provided; therefore, the cost may be significantly lower.

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FACE SHEET
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DO NOT WRITE IN THIS SPACE

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

[Signature]

BY: (DEPUTY ATTORNEY GENERAL)

DEC 29 2006

DATE OF APPROVAL

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

State Board of Veterinary Medicine (AGENCY)

DOCUMENT/FISCAL NOTE NO. 16A-5721

DATE OF ADOPTION:

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

TITLE: Chairman (EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

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

[Signature]
Andrew Clark

BY: Andrew Clark

DEC 8 2006

DATE OF APPROVAL

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

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

PROPOSED RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF VETERINARY MEDICINE
49 PA. CODE, § 31.21
PROFESSIONAL CONDUCT

The State Board of Veterinary Medicine (Board) proposes to amend § 31.21 (relating to rules of professional conduct for veterinarians) to read as set forth in Annex A. The amendments to Principle 1 of § 31.21 (relating to competency) would mandate that a veterinarian report to the Board certain conduct relating to issues of professional competency of another veterinarian. Amendments to Principle 3 (relating to professional behavior) would state more comprehensively conduct that is unprofessional. In addition, the Board proposes to revise § 31.22, Principle 7 (relating to veterinarian/client relationships) and to specify limits on refusal or discontinuation of treatment.

Effective Date

The rulemaking would become effective upon publication of the final-form regulation in the Pennsylvania Bulletin.

Statutory Authority

Section 5(1) of the Veterinary Medicine Practice Act (act) (63 P.S. § 485.5(1)) authorizes the Board “[a]dopt reasonable rules and regulations governing the practice of veterinary medicine as are necessary to enable it to carry out and make effective the purpose and intent of this statutory law.” Section 5(2) of the act authorizes the Board to “[a]dopt rules and regulations of professional conduct appropriate to establish and maintain a high standard of integrity, skills and practice in the profession of veterinary medicine.”

Background and Need for Amendment

The Board’s proposed changes arise from the Board’s ongoing review and commitment to keeping its regulations consistent with current standards of veterinary medicine practice, from disciplinary matters that have come before the Board, and from input from the public regarding the need to regulate in particular areas of professional conduct.

Description of Proposed Amendments

The Board proposes to amend Principles 1, 3 and 7 of its current regulations relating to professional conduct as follows:

Proposed Amendment to Principle 1

Subsections (a) – (c) concern the duty of veterinarians to maintain the aspirational goals of competency in the veterinarian's individual practice. Existing Subsection (d) concerns a veterinarian's responsibility concerning issues regarding the professional competency of another veterinarian.

The Board proposes to amend subsection (d) of Principle 1 to make mandatory a veterinarian's duty to report to the Board when a veterinarian has been unable to informally resolve with another veterinarian an issue of gross professional incompetence. The Board's current regulation is aspirational. The Board proposes to make the duty to inform the Board mandatory. In a related amendment, the Board proposes to amend Principle 3 by adding a new subsection (k) to provide that unprofessional conduct includes failing to report a matter described in Principle 1(d) to the Board.

Proposed Amendments to Principle 3

The Board proposes to maintain subsections (a) through (d) of Principle 3, and add new subsections (e) through (l). The Board has redrafted Principle 3 to clarify that a licensee may be disciplined for unprofessional conduct under section 21 of the act (63 P.S. § 485.21). Specifically, a licensee may be disciplined under section 21(1) of the act (63 P.S. § 485.21(1)) for willful or repeated violations of any of the rules and regulations of the Board. A licensee may be disciplined under section 21(20) of the act (63 P.S. § 485.21(20)) for professional incompetence. The rulemaking clarifies this statutory term. Some of the examples of incompetent, unprofessional or immoral conduct may also subject a licensee to discipline under other subsections of section 21 of the act. For example, the Board believes that fraudulently issuing a health certificate is immoral conduct. This conduct may also be disciplined under section 21(6) of the act (63 P.S. § 485.21(6)).

The Board's new subsection (e) would prohibit a veterinarian from attempting to induce or attempting to influence, through coercion, undue pressure or intimidation, a person to file, not file or withdraw a complaint before the Board. Licensees subject themselves to the jurisdiction of the Board, including the statutory and regulatory rules of conduct and processes for disciplining professional licenses. This process includes the ability of the public to file a complaint against a professional licensee, to have that complaint investigated, and, where appropriate, to have formal charges brought against the licensee in accordance with the licensing act and the Administrative Agency Law (2 Pa. C.S. §§ 101-704). A licensee who attempts to induce or inappropriately influence a member of the public to file, not file or withdraw a complaint has attempted to undermine the disciplinary process of the Board. The Board concludes that such conduct is unprofessional.

The Board's new subsection (f) would prohibit a veterinarian from abusing a client, former client, colleague, associate or staff, including verbal abuse, harassment or intimidation. The proposed language adds necessary specificity to allow the Board to discipline licensees for certain misconduct.

Proposed subsection (g) relates section 21(11) of the act, which authorizes the Board to discipline a licensee for "[i]ncompetence, gross negligence or other malpractice, or the departure from, or failure to conform to, the standards of acceptable and prevailing veterinary medical practice." Proposed subsection (g) also relates to section 21(20) of the act, which authorizes the Board to discipline a licensee for "[p]rofessional incompetence." Proposed subsection (g) would clarify that the two statutory prohibitions against incompetence encompass both performing a task incompetently and performing a task the licensee knows or was reason to know he is not competent to perform. Subsection (g) is consistent with the Commonwealth Court's opinion of conduct prohibited by sections 21(11) & 21(20).

The Board's new subsection (h) prohibits a veterinarian from making any false, deceptive or misleading statement or claim as defined in § 31.21, Principle 5(a). While Principle 5 applies only to advertising, the Board believes that veterinarians should be prohibited from making false, deceptive or misleading statements or claims in all aspects of context professional practice, such as in a conversation with a client.

The proposal for new subsection (i) would prohibit a veterinarian from delegating a veterinary medical service to a certified veterinary technician or unlicensed person who the veterinarian knows or should know is not qualified by education, training, experience, license or certification to perform the service. In addition, the new subsection requires a veterinarian to make a reasonable investigation of the delegatee's education, training, experience, license or certification before delegating a veterinary medical service. Finally, the new subsection requires the veterinarian to provide appropriate supervision to the delegatee.

The Board also proposes new subsection (j) to prohibit a veterinarian from inhumanely treating or abusing any animal, whether or not the animal is a patient. This provision is consistent with the acceptable and prevailing ethical standards of the profession and with many states' practice acts and regulations.

Proposed subsection (k) prohibits a veterinarian from failing to report another licensee to the Board when the veterinarian knows or has reason to believe the licensee has engaged in incompetent practice, unprofessional conduct or animal neglect or abuse.

Proposed Amendments to Principle 7

As with the amendments proposed to Principle 3, the amendments proposed to Principle 7 clarify and expand existing provisions. Consistent with the statutory amendments of December 2002, defining the “veterinarian-client-patient relationship” in section 3 of the act (63 P.S. § 485.3), Principle 7 will be renamed “veterinarian-client-patient relationships” to mirror statutory language and reflect the duties required to both the client/owner and the patient/animal. The Board proposes two amendments to provide additional clarity to existing subsection (a).

The Board proposes to add exceptions to the general rule that veterinarians may choose whom they will serve, to account for circumstances in which a veterinarian is presented with an animal in a life-threatening condition that is physically presented to the veterinarian during the veterinarian’s regular business hours. The proposed amendment provides that a veterinarian must, at a minimum, triage the animal (evaluate the need for immediate treatment in light of the other cases currently requiring treatment by the veterinarian), assess the animal, determine the animal’s prognosis, and provide basic life support or euthanasia. This provision places on veterinarians a minimal duty that will allow an owner to determine whether further treatment should be sought. The amendment recognizes that a sole practitioner who may be in the middle of surgery when an animal is brought into the veterinary facility in a life-threatening condition may not always be able to step away from the surgery to attend to the emergent animal. The proposed language requiring the veterinarian to triage the animal ensures that the animal will be taken care of in the proper order of medical necessity.

The proposed amendment permits a veterinarian to provide care to an animal in a life-threatening condition without the owner’s consent if the owner is unknown or cannot be reached for consultation. This provision would allow a veterinarian to provide emergency treatment to, for example, a dog hit by a car that is brought in by a bystander, without first having to find the owner. This provision would also allow a veterinarian to euthanize an animal brought to the veterinary facility in a life-threatening condition without the owner’s consent if, in the veterinarian’s professional judgment, euthanasia is the only appropriate option.

The Board proposes to require a veterinarian to give notice to a client if the veterinarian determines that he can no longer provide veterinary services to an animal and to allow the client reasonable time to obtain alternate veterinary care. This provision protects the public by ensuring that the public will have a reasonable time to find another veterinarian.

The Board proposes to amend subsection (b) to make mandatory the veterinarian’s duty with regard to balancing a client’s ability to pay for veterinary services and alleviating or ending an animal’s suffering. The proposed amendments to subsection (b) are related to the proposed amendments to subsection (a), in that, read together, the provisions require a veterinarian to provide limited emergency care or medically appropriate euthanasia without regard to a client’s

ability to pay. These provisions do not limit the veterinarian from seeking, after the services have been provided, remuneration for the services through an appropriate judicial forum.

The Board proposes to strike the current text of subsection (d). As with a similar provision that the Board proposes to strike from subsection (a), the Board believes that the concept is self-evident and does not need to be set forth in regulation.

The Board proposes significant amendments to what is currently subsection (e), but will become subsection (d). An individual approached the Board with the suggestion that the Board mandate that veterinarians inform clients of the contraindications and possible side effects of nonsteroidal anti-inflammatory drugs (NSAIDs). The individual suggested that the Board mandate that veterinarians provide a “client information sheet” whenever the veterinarian dispenses an NSAID. The Board is aware that some drugs of this class have been documented to cause adverse reactions in dogs. In addition, as with all drugs, NSAIDs are not indicated for use in animals with certain health problems or for animals receiving certain other drug therapies.

The Board believes that its regulations should provide broad protection to the public in relation to veterinary medical diagnosis and treatment rather than focusing on one narrow class of drugs. The Board has addressed this concern in proposed subsections (d) and (e), and in a separate rulemaking package through proposed amendments to § 31.22(d) (relating to recordkeeping). The Board finds that the public protection will be advanced by requiring veterinarians to be aware of drug contraindications, to inform clients of the benefits, risks and side effects of all recommended treatments, from surgeries to drug therapies, and to document client consent or rejection of treatment, including drug therapy, in the animal’s veterinary medical record. The Board proposes the following amendments to ensure that consumers of veterinary medical services are well informed:

(d) Veterinarians shall familiarize themselves with advancements in veterinary medicine, including new techniques, drugs and scientific research that may affect treatment decisions. Veterinarians shall be familiar with the pharmacologic properties and contraindications of drugs and biologics used in their practice.

(e) Veterinarians shall explain the benefits, risks and side effects of treatment alternatives to clients.

In addition, in a separate rulemaking, the Board is proposing the following amendment to § 31.22(d):

The veterinary medical record shall document all communication with the client, including the client’s consent to or rejection of recommended diagnostic testing

and treatment, including drugs. A veterinarian in production animal practice may document client communication at the veterinarian's discretion.

The Board's proposal, because it also applies to biologics, would require veterinarians to be familiar with and to inform clients of the risks and possible side effects of vaccines. The proposed rulemaking, because it applies to all veterinary medical treatments, would require a veterinarian to explain the pros and cons of all treatments. For example, a veterinarian presented with an animal with a broken limb would be required to explain the benefits, risks and side effects of a range of treatment options, such as surgery and internal reduction and fixation, external reduction and fixation through use of a cast, or, where there is a good potential for a successful outcome, external reduction and fixation through use of some type of splint. Principle 4 (relating to fees) already provides that a veterinarian must clearly explain fees for professional services in advance of billing. This provision, together with the Board's proposed amendments to Principle 7 and its recordkeeping regulation, would require a veterinarian to also inform the client of the cost of the various treatment options. The Board finds that this broader regulation provides more protection to the public than the suggestion that veterinarians provide clients with a "client information sheet" when the veterinarian dispenses an NSAID.

Dr. Paul Kneply, chairman of the Department of Agriculture's Animal Health and Diagnostic Commission, submitted comments to the Board on its draft rulemaking. In his comments, Dr. Kneply asked about the implications of proposed subsection (f) for "normal farming activities and practices used in production animal medicine, such as castration and dehorning." Dr. Kneply noted: "A veterinarian may not normally administer anesthesia for these practices," and asked whether the proposed language would "prohibit 'normal animal agricultural practices' without anesthesia and pain medication." The Board is aware that the acceptable and prevailing standard of veterinary medical practice in production animal medicine does not always include the administration of anesthesia or analgesia for the performance of procedures that, if performed on a companion animal, would require the administration of anesthesia or analgesia, or both. For this reason, the Board has amended the draft language of subsection (f) and now proposes the following: "Veterinarians shall serve as patient advocates especially as regards alleviation of pain and suffering, consistent with the acceptable and prevailing standards of veterinary medical practice. Veterinarians must remain abreast of analgesic drugs, dosages, treatment intervals and combination therapies proven to be safe and effective in different species and in various conditions of age, illness or injury."

Compliance with Executive Order 1996-1

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the regulation, the Board sent the text of the proposed regulation to interested parties, including state and regional veterinary medical associations.

Fiscal Impact and Paperwork Requirements

The proposed amendment should not have any financial impact on licensees, the Board or any other state entity. The proposed amendment will have no fiscal impact on the public. There are no additional paperwork requirements associated with the rulemaking.

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on February 21, 2007, 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 (SCP/PLC), and the House Professional Licensure Committee (HPLC). 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 that have not been met. The Regulatory Review Act specifies detailed procedures for review of comments, recommendations and objections by the Board, the General Assembly, and the Governor, prior to final publication of the rulemaking.

Public Comment

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

Thomas J. McGrath, D.V.M.
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

§ 31.21. Rules of Professional Conduct for Veterinarians.

Principle 1. Competency.

(d) Veterinarians shall safeguard the public and the veterinary profession against veterinarians deficient in professional competence or ethical conduct as described in this chapter. When a veterinarian[s] knows or [have] has reason to believe that a professional colleague's actions [reflect] demonstrate professional incompetence, neglect or animal abuse, [veterinarians having first hand knowledge of these activities] a veterinarian should [attempt to resolve the issue informally by bringing] bring the behavior to the attention of the [veterinarian.] colleague and, if the matter is not resolved, should bring the matter to the attention of the Board. [When a veterinarian cannot deal with the situation informally, the veterinarian should] If the conduct is grossly incompetent, or involves neglect or animal abuse, the veterinarian shall bring the matter

to the attention of the Board by [writing to the Complaints Office of] filing a complaint with the Bureau of Professional and Occupational Affairs, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649.

Principle 3. [[Professional behavior] Unprofessional conduct.

A veterinarian who engages in unprofessional or immoral conduct is subject to disciplinary action under section 21(1) of the act (63 P.S. § 485.21(1)) and may also be subject to discipline under section 21(11) or 21(20) of the act. Unprofessional or immoral conduct includes, but is not limited to:

- (a) [Veterinarians may not place their] Placing the veterinarian's professional knowledge, attainments or services at the disposal of a lay body, organization or group for the purpose of encouraging unqualified groups or individuals to perform surgery upon animals or to otherwise practice veterinary medicine on animals that they do not own.
- (b) [Veterinarians may not perform or participate] Performing or participating in a surgical procedure when they know that surgery has been requested with intent to deceive a third party.
- (c) [Veterinarians may not perform] Performing surgical procedures on a species for the purpose of concealing genetic defects in animals to be shown, raced, bred or sold. If the health or welfare of an animal requires correction of a genetic defect, the surgical

procedures will be permitted. In these instances, the veterinarian should clearly note the reason for the surgery on the veterinary medical record of the animal.

- (d) [Veterinarians may not engage] Engaging in merchandising.
- (e) Attempting to influence through coercion, undue pressure or intimidation, or attempting to induce an individual to file, not file or withdraw a complaint with the Board.
- (f) Abusing a client, former client, colleague, associate or employee, including verbal abuse, harassment or intimidation.
- (g) Performing a veterinary medical act incompetently or performing a veterinary medical act that the licensee knows or has reason to know he is not competent to perform.
- (h) Making any false, misleading or deceptive statement or claim as defined in Principle 5(a).
- (i) Delegating a veterinary medical service to a certified veterinary technician or unlicensed person who the licensee knows or should know is not qualified by education, training, experience, license or certification, to perform. The licensee shall perform a reasonable investigation of the delegatee's skills before delegating a veterinary medical service and shall provide supervision of the service consistent with the acceptable and prevailing standards of veterinary medical practice.
- (j) Inhumanely treating or abusing any animal, whether or not the animal is a patient.

- (k) Failing to report a matter to the Board as required by Principle 1(d).

Principle 7. Veterinarian/client/patient relationships.

(a) [Veterinarians] Except as provided below, veterinarians may choose whom they will serve. [Once they have undertaken the care of an animal, however, they may not neglect the animal.]

(1) During a veterinarian's regular business hours, a veterinarian shall not refuse to treat an animal which is in a life-threatening condition at the time the animal is physically presented to the veterinarian at the veterinarian's facility. The minimum veterinary medical services that must be provided include triage of the presenting emergency and other patients present at the facility, assessment of the animal's condition, evaluation of the animal's prognosis and provision of basic life support or euthanasia, as medically appropriate. A veterinarian may provide care for an animal under this paragraph notwithstanding the lack of a veterinarian/client/patient relationship and if the owner is unknown or cannot be reached, without consent of the owner.

(2) If a veterinarian deems it necessary to discontinue the treatment of an animal with which the veterinarian has a veterinarian/client/patient relationship, the veterinarian shall give notice to the client of his

intention to withdraw and provide reasonable time to allow the client to obtain necessary veterinary care for the animal.

(b) [In their relations with clients, veterinarians should] Veterinarians shall consider first the welfare of the animal for the purpose of relieving suffering and disability while causing a minimum of pain or fright. [Benefit to the animal] Alleviating or ending suffering for the animal [should] shall transcend personal advantage or monetary gain in decisions concerning therapy.

(c) Veterinarians and their staffs shall protect the personal privacy of clients, unless the veterinarians are required by law to reveal the confidences or it becomes necessary to reveal the confidences to protect the health and welfare of an individual, the animal or others whose health and welfare may be endangered.

(d) [Veterinarians shall be fully responsible for their actions with respect to an animal from the time they accept the case until the animal is released from their care.

(e) In the choice of drugs, biologics or other treatments, veterinarians should use their professional judgment in the interests of the animal, based upon their knowledge of the condition, the probable effects of the treatment and the available scientific evidence that may affect these decisions.] Veterinarians shall familiarize themselves with advancements in veterinary medicine, including new techniques, drugs and scientific research that may affect treatment decisions. Veterinarians shall be familiar with the pharmacologic properties and contraindications of drugs and biologics used in their practice.

(e) Veterinarians shall explain the benefits, risks and side effects of treatment alternatives to clients.

(f) Veterinarians shall serve as patient advocates especially as regards alleviation of pain and suffering, consistent with the acceptable and prevailing standards of veterinary medical practice. Veterinarians must remain abreast of analgesic drugs, dosages, treatment intervals and combination therapies proven to be safe and effective in different species and in various conditions of age, illness or injury.

(g) If a client desires to consult with another veterinarian about the same case, the first veterinarian shall readily withdraw from the case, indicating the circumstances on the veterinary medical record of the animal, and shall forward copies of the animal's veterinary medical records to other veterinarians who request them.

[(g)](h) If a client requests referral to another veterinarian or veterinary hospital, the attending veterinarian shall honor the request and facilitate the necessary arrangements, which shall include forwarding copies of the veterinary medical records of the animal to the other veterinarian or veterinary hospital.

16A-5721 Professional Conduct List of Commentators

Henry Frank
2763 Island Avenue
Philadelphia, PA 19153-2225

Dr. Paul E. Knepley
Pennsylvania Department of Agriculture
2301 North Cameron Street
Harrisburg, PA 17110-9408

Demetry Herman
2328 Huckleberry Road
Allentown, PA 18104

The Honorable Michael J. Stack
Senate Box 203005
The State Capitol
Harrisburg, PA 17120-3005



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

February 21, 2007

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

Re: Proposed Regulation
State Board of Veterinary Medicine
16A-5721:Professional Conduct

Dear Chairman Coccodrilli:

Enclosed is a copy of a proposed rulemaking package of the State Board of Veterinary Medicine pertaining to Professional Conduct.

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 that reads "Thomas J. McGrath DVM".

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-5721
SUBJECT: PROFESSIONAL CONDUCT
AGENCY: DEPARTMENT OF STATE
STATE BOARD OF VETERINARY MEDICINE

TYPE OF REGULATION

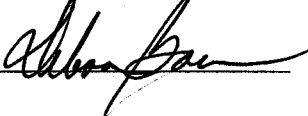
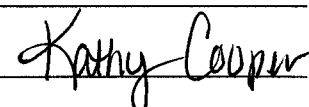

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

INDEPENDENT REGULATORY
REVIEW COMMISSION

2007 FEB 21 AM 11:22

RECEIVED

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
2/21/07		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
2/1/07		SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
2/21/07		INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
2/1/07		LEGISLATIVE REFERENCE BUREAU (for Proposed only)