

2594

**From:** James Wilson [jfwdvmd@verizon.net]  
**Sent:** Sunday, February 15, 2009 11:00 PM  
**To:** 'Charlene Wandzilak'; 'D. Susan Ackermann'; 'Dr. Alan Schwartz'; 'Dr. Bill Croushore'; 'Dr. Christopher Smith'; 'Dr. Dan Pierce'; 'Dr. Dan Zawisza'; 'Dr. Doug Schmidt'; 'Dr. Ed Shelly'; 'Dr. Ferdi Visintainer'; 'Dr. Gerald Frye'; 'Dr. Jeff Steed'; 'Dr. Jim Holt'; 'Dr. John Showalter'; 'Dr. John Simms'; 'Dr. Joni Sarakon'; 'Dr. Larry Samples'; 'Dr. Maribeth Shea Droese'; 'Dr. Mary-Lynn McBride'; 'Dr. Mike Barnett'; 'Dr. Mike Topper'; 'Dr. Raj Khare'; 'Dr. Ramsi Chaudhari'; 'Dr. Russel Nyland'; 'Dr. Ted Robinson'; 'Dr. Tina Dougherty'; 'Dr. Trent Lartz'; 'Dr. Lisa Murphy'; 'Dr. Mark Fox'; 'Dr. Mary Bryant'; 'Dr. Robert Fetterman'; 'Dr. Ron Kraft'; 'Dr. Tom Munkittrick'; 'Debbie Chappell'; 'Dr. Bob Lavan (home)'; 'Dr. Charles Newton'; 'Dr. J. Allen Leslie'; 'Dr. Jim Rummel'; 'Dr. John Enck'; 'Dr. John Lee'; 'Dr. Larry Gerson'; 'Dr. Lillian Guillani'; 'Dr. Malcolm Kram'; 'Dr. Michael Moyer'; 'Dr. Patricia Thomson'; 'Dr. Robert Graybill'; 'Dr. Robert Lavan'; 'MeeCee Baker'; 'PVTA Beth Shelby'; 'PVTA Kelly Mallonee'; 'Stacy Gromlich'  
**Cc:** tazo@state.pa.us; IRRC  
**Subject:** RE: Professional Conduct, Final-form Regulation #16A-5721 (#2594), State Board of Veterinary Medicine

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2009 FEB 17 AM 11:01

INDEPENDENT REGULATORY REVIEW COMMISSION

Hello PVMA Members, IRRC Members and Leaders of the Veterinary Profession,

I don't know why these bills always come to a head at the busiest time of my year but they do. My first comment is "I am most pleased that this version is so much better than the version we were considering a year ago. We will never satisfy everyone but the process of legislative review is working."

My first big struggle is with the definition for Neglect- As set forth in this Regulation it says:

To abandon an animal or deprive, EITHER PERSONALLY OR THROUGH ONE'S EMPLOYEES OR AGENTS, an animal over which one has a duty of care, whether belonging to himself or otherwise, of necessary sustenance, drink, shelter or veterinary care APPROPRIATE TO THE ANIMAL'S CONDITION or access to sanitary shelter ~~which will protect the animal against inclement weather, preserve the animal's~~

~~normal temperature and keep it dry AND SUPPORT FOR AN ANIMAL'S BASIC PHYSICAL AND~~ **EMOTIONAL NEEDS.** I believe the word 'emotional needs' was in here a year ago and with it comes an immense potential for difficulty. I am not saying it shouldn't be here but am asking 1) "Who will be required to evaluate the emotional needs of different species of animals (for example, a boarded animal behaviorist) and 2) what standards must be met to determine whether a licensee has met those needs?" Wouldn't just using the word "physical" encompass some the animal's mental needs without bringing into play a full discussion of its **EMOTIONAL NEEDS?**

Principle 1. Competency. D)(E). If I am reading what has been inserted and deleted correctly, it would read as follows:

d)(E) Veterinarians shall safeguard the public and the veterinary profession against veterinarians deficient in professional competence, **PROFESSIONAL** conduct OR **ETHICAL CONDUCT** as described in this chapter.

- (1) When a veterinarian knows or has reason to believe that a professional colleague's actions demonstrate **DEVIATION FROM OR FAILURE TO CONFORM TO THE STANDARDS OF ACCEPTABLE AND PREVAILING VETERINARY MEDICAL PRACTICE** OR professional incompetence, neglect or animal abuse, a veterinarian

**SHALL?? SHOULD??** bring the behavior to the attention of the colleague,  
**DOESN'T THIS NEED TWO EXTRA WORDS AS I HAVE INSERTED IN BOLD  
AND HIGHLIGHTED HERE?? AND WHICH WORD IS TO BE INSERTED  
SHALL OR SHOULD??**

My next struggle is with English grammar and writing that just doesn't make sense or is just blatantly wrong as currently written. I have inserted language that would make sense and stricken a word that doesn't make sense.

(2) A VETERINARIAN SHALL BRING THE BEHAVIOR OF ANOTHER VETERINARIAN TO THE ATTENTION OF THE BOARD BY SENDING A WRITTEN REPORT TO THE BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS, PROFESSIONAL COMPLIANCE OFFICE, P.O. BOX 2649, HARRISBURG, PA 17105- 2649 IF:

- (I) THE VETERINARIAN CANNOT INFORMALLY RESOLVE AN ISSUE OF **INVOLVING** THE DEVIATION FROM OR **A** FAILURE TO CONFORM TO THE STANDARDS OF ACCEPTABLE AND PREVAILING VETERINARY MEDICAL PRACTICE OR PROFESSIONAL INCOMPETENCE WITH THE OTHER VETERINARIAN, OR
- (II) (II) THE VETERINARIAN LEARNS OF REPEATED DEVIATION **S** FROM OR FAILURE TO CONFORM TO THE STANDARDS OF ACCEPTABLE AND PREVAILING VETERINARY MEDICAL PRACTICE, PROFESSIONAL INCOMPETENCE OR MISCONDUCT, OR **[we need deviations to be plural to coincide with "standards."]**
- (III) THE MATTER INVOLVES ANIMAL ABUSE OR NEGLECT.

(5) REPRESENTING CONFLICTING INTERESTS, EXCEPT WITH WRITTEN CONSENT OF PARTIES KNOWN TO THE VETERINARIAN **TO HAVE CONFLICTING INTERESTS AND THEN ONLY** ~~GIVEN~~ AFTER A FULL DISCLOSURE OF THE FACTS. REPRESENTING CONFLICTING INTERESTS INCLUDES BEING EMPLOYED BY A BUYER TO INSPECT AN ANIMAL FOR SALE AND ACCEPTING A FEE FROM THE SELLER AND **OR** PROVIDING VETERINARY MEDICAL ADVICE REGARDING A COMMON MATTER TO MULTIPLE PERSONS INTERESTED IN THE MATTER. **[If the words and/or are not inserted here, then all of these elements must be proven to prove a violation of this section and we're talking about different things here.]**

(14) Delegating a veterinary medical service to a certified veterinary technician. VETERINARY TECHNICIAN SPECIALIST or INDIVIDUAL NOT LICENSED TO PRACTICE VETERINARY MEDICINE THAT IS BEYOND THE SCOPE OF PRACTICE FOR THAT INDIVIDUAL AS DEFINED BY LAW OR REGULATION OR who the licensee VETERINARIAN knows or should know is not qualified by education, training, experience, license or certification, to perform **SUCH TASK OR SERVICE**. **[Unless we insert something at the end of this sentence, it doesn't make sense to me.] B**

On another section of this Rules of Professional Conduct, I have found it essential to comment on Dr. Showalter's 2-1-09 statement regarding Principle "C" regarding written consent when a veterinarians elects not to refer a case to a specialist. That comments reads,

**"I cannot currently see my ability in the rest of my practice career to provide a para-legal to follow me around and get release forms signed by clients on every decision point made during the case management."**

Please understand colleagues that that is not what this Rule requires! The only time one needs to obtain a **written consent** to proceed with care is in those situations where clients have rejected appropriate education and offers or recommendations for referrals to specialists. This was not an issue 10 or 15 years ago. However, with the infusion of dozens of specialists and emergency clinics into our profession, the standard of care has risen along with it. It is now 2008 and only right and professionally proper that clients be informed of the availability of such care.

This includes the availability of overnight/week end/holiday emergency care with constant staff and doctor supervision in situations where it is readily available. We're not talking about dozens of cases per week where this is even an issue. We're talking about cases where one's sound judgment suggests that clients be educated about the availability of such care. They can't assume what they don't know.

Thanks for asking me to comment. I am still impressed with the major improvement that we are seeing here relative to a year ago.

Jim

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**From:** Charlene Wandzilak [mailto:cwandzilak@pavma.org]

**Sent:** Wednesday, February 11, 2009 9:22 PM

**To:** 'Charlene'; 'D. Susan Ackermann'; 'Dr. Alan Schwartz'; 'Dr. Bill Croushore'; 'Dr. Christopher Smith'; 'Dr. Dan Pierce'; 'Dr. Dan Zawisza'; 'Dr. Doug Schmidt'; 'Dr. Ed Shelly'; 'Dr. Ferdi Visintainer'; 'Dr. Gerald Frye'; 'Dr. Jeff Steed'; 'Dr. Jim Holt'; 'Dr. John Showalter'; 'Dr. John Simms'; 'Dr. Joni Sarakon'; 'Dr. Larry Samples'; 'Dr. Maribeth Shea Droese'; 'Dr. Mary-Lynn McBride'; 'Dr. Mike Barnett'; 'Dr. Mike Topper'; 'Dr. Raj Khare'; 'Dr. Ramsi Chaudhari'; 'Dr. Russel Nyland'; 'Dr. Ted Robinson'; 'Dr. Tina Dougherty'; 'Dr. Trent Lartz'; 'Dr. Lisa Murphy'; 'Dr. Mark Fox'; 'Dr. Mary Bryant'; 'Dr. Robert Fetterman'; 'Dr. Ron Kraft'; 'Dr. Tom Munkittrick'; 'Debbie Chappell'; 'Dr. Bob Lavan (home)'; 'Dr. Charles Newton'; 'Dr. J. Allen Leslie'; 'Dr. Jim Rummel'; 'Dr. Jim Wilson'; 'Dr. John Enck'; 'Dr. John Lee'; 'Dr. Larry Gerson'; 'Dr. Lillian Guilliani'; 'Dr. Malcolm Kram'; 'Dr. Michael Moyer'; 'Dr. Patricia Thomson'; 'Dr. Robert Graybill'; 'Dr. Robert Lavan'; 'MeeCee Baker'; 'PVTA Beth Shelby'; 'PVTA Kelly Mallonee'; 'Stacy Gromlich'

**Subject:** FW: Professional Conduct, Final-form Regulation #16A-5721 (#2594), State Board of Veterinary Medicine

If we have any comments on the final-form professional conduct regulations which were revised and resubmitted to IRRC by the State Board of Medicine, we must do so by March 11 (my deadline because I am away the 12th and 13th). Please provide input by February 28.

Thanks, Charlene

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**From:** Jewett, John H. [mailto:jjewett@IRRC.STATE.PA.US]

**Sent:** Tuesday, February 10, 2009 9:12 AM

**Subject:** Professional Conduct, Final-form Regulation #16A-5721 (#2594), State Board of Veterinary Medicine

On February 6, 2009, the State Board of Veterinary Medicine (Board) submitted a revised final-form regulation to the House Professional Licensure Committee and Senate Consumer Protection and Professional Licensure Committee (House and Senate Committees), and Independent Regulatory Review Commission (IRRC).

In December 2008, the Board withdrew its original final-form regulation.

IRRC is scheduled to meet and act on this regulation at 10:30 a.m. on March 19, 2009. The agenda for, or any changes to the time, date or location of our public meeting, will be posted on IRRC's website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us). IRRC's public meeting will be held on the 14<sup>th</sup> floor at 333 Market Street in Harrisburg.

If you commented on the proposed version of this regulation, the Board may be sending you a copy of the final-form version. A copy of the regulation, as submitted by the Board to the Committees and IRRC, is attached for your review, and is also available at the IRRC website. Click on the link below to reach the final-form regulation via the IRRC web page.

[www.irrc.state.pa.us/Documents/SRCDocuments/Regulations/2594/AGENCY/Document-12179.pdf](http://www.irrc.state.pa.us/Documents/SRCDocuments/Regulations/2594/AGENCY/Document-12179.pdf)

The House and Senate Committees have the opportunity to also review and take action on this regulation. The review period for the House and Senate Committees would end 24 hours before the IRRC public meeting (which would be 10:30 a.m. on March 18, 2009, for this regulation).

If you or others want to express support for this regulation, or have comments, concerns, questions or suggestions, please consider submitting written comments as soon as possible. Interested parties may submit written comments on the regulations to IRRC, the House and Senate Committees, or individual legislators ([www.legis.state.pa.us](http://www.legis.state.pa.us)).

Written comments may be sent to our Commissioners at IRRC **by fax at (717) 783-2664, by email to [irrc@irrc.state.pa.us](mailto:irrc@irrc.state.pa.us), or by regular mail using the address listed at the bottom of this email.** Written comments should reference the ID number for this regulation: #16A-5721 (#2594). Written comments sent to IRRC will be included in IRRC's public record file which is now available on the internet. You may sign up for "**email alerts**" for additions to our public record files such as when IRRC receives a regulation or documents related to regulations, or when IRRC submits comments on a regulation, at [www.irrc.state.pa.us](http://www.irrc.state.pa.us).

If you submit comments to a legislator, Committee or IRRC, please also "cc" the Board by sending comments to the following persons and address:

Teresa Lazo, Board Counsel  
State Board of Veterinary Medicine  
P.O. Box 2649  
Harrisburg, PA 17105-2649

Email addresses: [tazo@state.pa.us](mailto:tazo@state.pa.us)

Interested parties should submit comments on the regulation as soon as possible. This will give IRRC time to review and consider your comments. There is a "blackout period" before the public meeting. Pursuant to the Regulatory Review Act, public comments on the regulation received within 48 hours of the public meeting are "embargoed" and the IRRC Commissioners cannot read them until the meeting is called to order.

**Please** share this information with other interested individuals or groups. I hope this information is helpful. If you, other members of your organization or profession, or other interested parties have informal comments or questions, please contact me by telephone or via email.

Thanks for your time and consideration.

John H. Jewett  
Regulatory Analyst  
Telephone: (717) 783-5475

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