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INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

November 18, 2009

Robin J. Bernstein, Esq., Chair
State Board of Veterinary Medicine
2601 North 3rd Street
Harrisburg, PA 17110

Re: Regulation #16A-5723 (IRRC #2788)
State Board of Veterinary Medicine
Biennial Renewal Fees

Dear Ms. Bernstein:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at www.irrc.state.pa.us. If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman
Executive Director
wbg
Enclosure

cc: Honorable Robert M. Tomlinson, Majority Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Michael P. McGeehan, Majority Chairman, House Professional Licensure Committee
Honorable William F. Adolph, Jr., Minority Chairman, House Professional Licensure Committee
Honorable Pedro A. Cortes, Secretary, Department of State
Robert A. Mulle, Esq., Office of Attorney General
Andrew Clark, Esq., Office of General Counsel

Comments of the Independent Regulatory Review Commission



State Board of Veterinary Medicine Regulation #16A-5723 (IRRC #2788)

Biennial Renewal Fees

November 18, 2009

We submit for your consideration the following comments on the proposed rulemaking published in the September 19, 2009 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Board of Veterinary Medicine (Board) to respond to all comments received from us or any other source.

Statutory authority; Legislative intent; Fiscal impact.

This proposed rulemaking would provide for incremental biennial license renewal fee increases for veterinarians and veterinary technicians for the next six biennial renewal cycles. The current renewal fee for veterinarians is \$300 and the current renewal fee for veterinary technicians is \$75. The renewal fees at the end of the 2020-2022 biennial period will be \$590 for veterinarians and \$140 veterinary technicians.

Subsections 13 (a),(b) and (c) of the Veterinary Medicine Practice Act (Act) (63 P.S. § 485.13 (a), (b) and (c)) establish the Board's authority for setting and raising fees. Those sections state the following:

- a) The board shall, by regulation, fix the fees required for examination, licensure, certification, registration, renewal of licenses and registrations, renewal of certificates and temporary permits.
- (b) If the revenues raised by fees, fines and civil penalties imposed pursuant to this act are not sufficient to meet expenditures **over a two-year period**, the board shall increase those fees by regulation so that the projected revenues will meet or exceed projected expenditures. (Emphasis added.)

(c) If the Bureau of Professional and Occupational Affairs determines that the fees established by the board pursuant to subsections (a) and (b) are inadequate to meet the minimum enforcement efforts required by this act, then the bureau, after consultation with the board, shall increase the fees by regulation so that adequate revenues are raised to meet the required enforcement effort.

While we do not question the policy behind these incremental fee increases, we ask the Board to explain how the increases conform to the intent of the General Assembly and Section 13 of the Act. What is the Board's statutory authority for automatic fee increases that may or may not be needed to meet expenditures ten years in the future? If the financial condition of the Board improves, will the fees be decreased accordingly?

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REVIEW COMMISSION

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INDEPENDENT REGULATORY REVIEW COMMISSION
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To: Tom Blackburn
 Cynthia Montgomery
Agency: Department of State
 Licensing Boards and Commissions
Phone: 3-7200
 3-3394 (Cynthia Montgomery)
Fax: 7-0251
Date: November 18, 2009
Pages: 4

Comments: We are submitting the Independent Regulatory Review Commission's comments on the State Board of Veterinary Medicine's regulation #16A-5723 (IRRC #2788). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by:

Date:

Fax5