

Regulatory Analysis Form

(Completed by Promulgating Agency)



SECTION I: PROFILE

(1) Agency:

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

(2) Agency Number:

Identification Number:

16A-5723

IRRC Number:

2788

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(3) Short Title:

Biennial renewal fees

(4) PA Code Cite:

49 Pa. Code § 31.41

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact: **Teresa Lazo, assistant counsel, Department of State;**

(717)783-7200; P.O. Box 2649, Harrisburg, PA 17105-2649; (717)787-0251; tlazo@state.pa.us

Secondary Contact: **Joyce McKeever, Deputy Chief Counsel, Department of State**

(717)783-7200; P.O. Box 2649, Harrisburg, PA 17105-2649; (717)787-0251; jmckeever@state.pa.us

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5: **State Board of Veterinary Medicine**

(717)783-7134; P.O. Box 2649, Harrisburg, PA 17105-2649; (717)787-7769; st-veterinary@state.pa.us

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

Final Regulation

Regulatory Analysis Form

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The rulemaking would initially increase the biennial renewal fee from \$300 to \$360 for veterinarians and from \$75 to \$90 for certified veterinary technicians (CVTs). Thereafter, the fees would increase incrementally over the following five biennial renewal periods. The new fees are necessary to cover the costs of sustaining the Board's operations.

(9) Include a schedule for review of the regulation including:

- | | |
|---|-----------------------------------|
| A. The date by which the agency must receive public comments: | <u>30 days after publication.</u> |
| B. The date or dates on which public meetings or hearings will be held: | <u>N/A</u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>By September 1, 2010</u> |
| D. The expected effective date of the final-form regulation: | <u>Upon final publication.</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>December 1, 2010</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u> |

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

The Board continually reviews the efficacy of its regulations. The Board reviews its regulations at regularly scheduled public meetings, generally every other month. More information can be found on the Board's website (www.dos.state.pa.us/). Additionally, the Department of State, Bureau of Finance and Operations, makes annual financial reports to the Board. With this input, the Board regularly considers whether to amend its renewal fees.

Regulatory Analysis Form

SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

This rulemaking is authorized by section 13 of the Veterinary Medicine Practice Act (act) (63 P.S. § 485.13).

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

Yes. The Board is required by section 13(b) of the act (63 P.S. § 485.13(b)) to set fees to raise sufficient revenue to meet expenditures. The Board's projected deficit for fiscal year 2007-08 is \$105,254.46; the projected deficit increases to \$153,361.88 in FY 2009-10, and to \$374,361.00 in FY 2011-12, and to \$748,361.88 in FY 2013-14, and to \$1,290,361.88 in FY 2015-16. The proposed rulemaking is not mandated by any other federal or state law or court order or federal regulation.

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Nonregulation would adversely impact the fiscal integrity of the Board.

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

This rulemaking is based upon financial reports made by the Department of State's Bureau of Finance and Operations. This proposed rulemaking is not based upon any other scientific data, studies, or references.

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

Licensees will pay higher biennial renewal fees. The Board does not foresee any other groups being adversely affected by the rulemaking.

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

All licensed veterinarians and CVTs will be required to comply with the rulemaking. The Board licenses 3,742 veterinarians and 1,437 CVTs.

Regulatory Analysis Form

SECTION III: COST AND IMPACT ANALYSIS

(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. Explain how the dollar estimates were derived.

The cost in the first biennial period of implementation will be \$224,520 for veterinarians and \$21,555 for CVTs by raising the renewal fee by \$60 and by \$15, respectively. Subsequently, the fees will be incrementally increased over the following five biennial renewal periods. There are no other costs or savings to the regulated community associated with compliance with the rulemaking.

(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. Explain how the dollar estimates were derived.

There are no costs or savings to local governments associated with compliance with 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. Explain how the dollar estimates were derived.

The Board will not incur only minor administrative costs in implementing the rulemaking, as it will be required to update its computer-based and paper applications for biennial license renewal to reflect the increased fees. There are no other costs or savings to state government associated with compliance with the proposed 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.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings	NA	NA	NA	NA	NA	NA
COSTS:						
Regulated Community			\$246,075		\$410,125	
Local Government						
State Government						
Total Costs			\$246,075		\$410,125	
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	NA	NA	NA	NA	NA	NA

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

Program	FY -3 (FY 05-06)	FY -2 (FY 06-07)	FY -1 (FY 07-08)	Current FY (FY 08-09)
Pa. State Board of Veterinary Medicine	\$537,277	\$635,628	\$534,629	\$706,000

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The regulatory amendment is mandated by section 13 of the act (63 P.S. § 485.13) and is necessary to assure the fiscal integrity of the Board.

Regulatory Analysis Form

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

The Board received input from one member of the public and the Pennsylvania Veterinary Medical Association in response to the publication of the proposed rulemaking.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

The Board carefully considered reports and recommendations from the Department's Bureau of Finance and Operations, and a recommendation from the House Professional Licensure Committee to consider graduated fee increases, in developing its rulemaking. The Board concludes that this rulemaking is the least burdensome acceptable alternative.

(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 regulations.

No federal standards apply.

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

The proposed renewal fees are higher than those in most of the surrounding states. The biennial renewal fees in those states are:

	Veterinarians	CVTs
Delaware	\$114	\$71
Maryland	\$280	\$40
New Jersey	\$250	\$110
New York	\$210	\$80
Ohio	\$225	\$95
West Virginia	\$450	\$120

The rulemaking will not put Pennsylvania at a competitive disadvantage.

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

This regulation will not affect other regulations of the Board or other state agencies.

Regulatory Analysis Form

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

This rulemaking will not require any additional recordkeeping or other paperwork.

(28) 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 determined that there are no special needs of any subset of its applicants or licensees for whom special accommodations should be made.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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-5723

MAR - 3 2010

DATE OF APPROVAL

DATE OF ADOPTION: _____

DATE OF APPROVAL

BY: *[Signature]*
Robin J. Bernstein, Esquire

(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, §§ 31.41
BIENNIAL RENEWAL FEES

The State Board of Veterinary Medicine (Board) hereby amends §§ 31.41 (relating to fees) to read as set forth in Annex A. The amendments increase the Board’s biennial renewal fees incrementally over the upcoming six biennial renewal periods.

Effective Date

The amendments will be effective upon publication of the final-form rulemaking in the Pennsylvania Bulletin. The next biennial renewal cycle will commence on December 1, 2010, and the first fee increase will be instituted at that renewal.

Statutory Authority

Section 13(b) of the Veterinary Medicine Practice Act (act) (63 P.S. § 485.13(b)) requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet Board expenditures. In its 2007 and 2008 annual reports to the Board, the Department’s Bureau of Finance and Operations (BFO) reported significant anticipated deficits requiring an increase in fees. In response to suggestions by the House Professional Licensure Committee, the Board proposed to raise fees incrementally over a 12-year period. If at any time it appears that the fees will not meet the Board’s expenditures or are excessive in relation to the Board’s expenditures, the Board may alter the fees through the regulatory process.

Summary of Comments and the Board’s Response

The Board received one comment from an individual member of the public and a comment from the Pennsylvania Veterinary Medical Association (PVMA). The individual commented that he was opposed to the fee increase because “many complaints and issues before the board are based on disputes over fees and concern about paying bills.” The Board does not have jurisdiction over fee disputes and any complaints regarding fees are closed at a very early stage; therefore, any costs associated with these types of complaints are minimal. Rather, the Board attributes the increases in expenditures to increased regulatory efforts and an increase in practice-related complaints.

PVMA wrote to state that it had no objections to the proposed fee increases in light of the past deficits and projected future deficits. PVMA also noted its willingness to work with the Board to educate the veterinary profession and potentially help decrease the number of complaints and therefore, the need to raise fees. The Board appreciates PVMA’s demonstrated willingness to educate the veterinary profession, particularly with regard to the Board’s recent rulemakings related to recordkeeping and professional conduct.

The House Professional Licensure Committee (HPLC) questioned how the new projected expenditures over the next six biennial renewal periods for veterinarians and veterinary technicians were determined to assure that the fee increases will adequately meet their intended goal. BFO bases its calculations on income and expenses for the past 3 years and also considers any particular items identified by the Board that may alter the estimates. The Board's expenses have risen dramatically over the past 10 years, requiring several fee increases, so this historic trend was also considered. The Board has had an increase in practice issue cases, which require greater resources. The Board has also undertaken a more ambitious regulatory agenda, including regulations to effectuate section 27(a)(2) of the act (63 P.S. § 485.27(a)(2)), which requires the Board to inspect all animal hospitals or veterinary establishments, including mobile clinics, at least biennially. BFO considered all of this information when it proposed fees to the Board. The Board, cognizant of the expense of repeatedly promulgating fee regulations and the disruption to licensees caused by unpredictable fees, determined that it should round BFO's proposals up slightly. If it appears after two or three biennial renewal periods that the fees are excessive in relation to the Board's expenses, the Board will promulgate a regulation to stabilize or decrease the fees.

The HPLC urged the Board to closely monitor its expenses to determine the adequacy of the increase over the proposed period and beyond so if a change in fees is needed, it will be realized as soon as possible. The Board will request information from the groups that provide services to the Board and will endeavor to ensure that expenses do not increase unnecessarily.

Finally, the HPLC noted that it appreciated the graduated increase as being easier for the Board's licensees. The Board agrees that the graduated increase will be easier for its licensees to plan for and manage their budgets.

The Independent Regulatory Review Commission (IRRC), noted that while it did not question the policy behind the incremental fee increases, it asked the Board to explain how the increase conform to the intent of the General Assembly and section 13 of the act (63 P.S. § 485.13). IRRC asked the Board to explain its statutory authority for automatic increases that may or may not be needed 10 years in the future and asked if the financial condition of the Board improves, would the fees be decreased accordingly? Section 13(b) of the act requires the Board to increase its biennial renewal fees if the Board's revenues are not sufficient to meet expenditures over a 2-year period. The General Assembly references a 2-year period because license renewal fees are collected biennially; therefore, the Board can only accurately gauge its revenue and expenses by looking at a given 2-year period. Section 13(b) does not limit the Board to looking only 2 years into the future when projecting a budget surplus or shortfall. The Board will carefully monitor its expenditures and will stabilize or decrease the fees by regulation if they are not needed.

Fiscal Impact and Paperwork Requirements

The regulation will increase the biennial renewal fee for veterinarians and veterinary technicians incrementally over the next six biennial renewal periods. The regulation should have no other fiscal impact on the private sector, the general public or political subdivisions. The regulation will require the Board to alter some of its forms to reflect the new biennial renewal fees: however, the regulation should not create additional paperwork for the private sector.

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)), the Board submitted a copy of the notice of proposed rulemaking, published at 39 Pa. B. 5436 (September 19, 2009), 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 _____, 2010, the final-form rulemaking was approved by the HPLC. On _____, 2010, 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 _____, 2010.

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.

Order

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

- (A) The regulations of the Board at 49 Pa. Code § 31.41 (relating to schedule of fees) are 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*.

Robin J. Bernstein, Esquire
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

FEES

§31.41. Schedule of fees.

An applicant for a license, certificate or service shall submit a payment at the time of the request under the following fee schedule:

[Veterinarians] Veterinarian fees for services:

* * * * *

[Biennial renewal.....\$300]

* * * * *

Veterinarian biennial renewal:

Biennial renewal fee for biennial period December 1, 2010 – November 30,

2012.....\$360

Biennial renewal fee for biennial period December 1, 2012 – November 30,

2014.....\$400

Biennial renewal fee for biennial period December 1, 2014 – November 30,

2016.....\$440

Biennial renewal fee for biennial period December 1, 2016 – November 30,

2018.....\$490

Biennial renewal fee for biennial period December 1, 2018 – November 30,

2020.....\$540

Biennial renewal fee for biennial period December 1, 2020 – November 30,

2022.....\$590

* * * * *

Veterinary [technicians] technician fees for services:

[Biennial renewal.....\$75]

* * * * *

Veterinary technician biennial renewal:

Biennial renewal fee for biennial period December 1, 2010 – November 30,

2012.....\$90

Biennial renewal fee for biennial period December 1, 2012 – November 30,

2014.....\$100

Biennial renewal fee for biennial period December 1, 2014 – November 30,

2016.....\$110

Biennial renewal fee for biennial period December 1, 2016 – November 30,

2018.....\$120

Biennial renewal fee for biennial period December 1, 2018 – November 30,

2020.....\$130

Biennial renewal fee for biennial period December 1, 2020 – November 30,

2022.....\$140

* * * * *

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 Regulatory Unit Counsel, Department of State, P. O. Box 2649, Harrisburg, PA 17105-2649, or st-physical@state.pa.us, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-6513 (continuing education providers), when submitting comments.

JAMES L. CLAHANE, PT,
Chairperson

Fiscal Note: 16A-6513. 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 40. STATE BOARD OF PHYSICAL THERAPY

Subchapter A. PHYSICAL THERAPISTS PRACTICE WITHOUT PHYSICIAN REFERRAL

§ 40.63. Continuing education.

* * * * *

(d) *Approved [sponsors; acceptable] courses and programs.*

(1) Courses and programs [provided by Board-approved sponsors] approved by the Board will be accepted as satisfying the continuing education requirement. It is the responsibility of the certificateholder to ascertain the approval status of the [sponsor] course before undertaking a continuing education activity.

* * * * *

(3) Sponsors of physical therapy continuing education seeking Board approval of individual courses shall submit an application at least 60 days prior to the date the continuing education course is due to take place, on forms provided by the Board and pay the required fee. The applicant will be notified of approval or disapproval in writing. Notifications of disapproval will set forth reasons. The Board will not approve a [sponsor] course unless [it] the sponsor:

* * * * *

(5) A sponsor seeking approval who is unable to submit the application at least 60 days prior to the date the course is given, may request a waiver in writing setting forth the reasons why the 60-day requirement could not be met.

(6) Approval of a course will be valid for 1 year after approval. In the event that the sponsor is scheduling multiple courses, the sponsor shall indicate on the application each date the course is to be given.

* * * * *

(h) *Preapproved sponsors.* In addition to sponsors whose specific courses and programs are approved, the Board finds the following entities have currently met the standards for approved courses and programs. Accordingly, courses that otherwise meet all requirements for required continuing education are approved when offered by the following sponsors:

(1) The American Physical Therapy Association (APTA) and its components.

(2) The Federation of State Boards of Physical Therapy (FSBPT) and its jurisdictions.

(3) Graduate education programs accredited by The Commission on Accreditation in Physical Therapy Education (CAPTE).

(4) Postentry level doctorate of physical therapy programs in an academic institution accredited by a regional accrediting organization recognized by the Council of Regional Accrediting Commissions on behalf of the Council for Higher Education Accreditation.

[Pa.B. Doc. No. 09-1720. Filed for public inspection September 18, 2009, 9:00 a.m.]

STATE BOARD OF VETERINARY MEDICINE

**[49 PA. CODE CH. 31]
Biennial Renewal Fees**

The State Board of Veterinary Medicine (Board) proposes to amend § 31.41 (relating to fees) as set forth in Annex A. The proposed rulemaking would provide for an incremental increase to the biennial license renewal fee for veterinarians and veterinary technicians over the upcoming five biennial renewal cycles.

Effective Date

The amendment will be effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*. The increased fees would be effective for the renewal period beginning December 1, 2010.

Statutory Authority

Section 13(b) of the Veterinary Medicine Practice Act (act) (63 P. S. § 485.13(b)) requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet Board expenditures. In recent years, while considering biennial renewal fee proposals from a variety of boards within the Bureau of Professional and Occupational Affairs, the House Professional Licensure Committee has suggested that the licensing boards set fee increases that are incremental over more than one biennial period. By this proposal, the Board would implement this suggestion. In addition to providing smaller increases for licensees, licensees benefit because the cost of promulgating biennial renewal fee regulations is saved.

Background and Purpose

The Board's current biennial license renewal fees for veterinarians and veterinary technicians were established in 2006. See 36 Pa.B. 4608 (August 19, 2006). At the time

the fee was established, it was anticipated that the new fee would enable the Board to balance its revenues and expenses for at least two biennial periods. Under section 13(b) of the act, the Board is required to support its operations from the revenue it generates from fees, fines and civil penalties. In addition, the act provides that the Board must increase fees if the revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures over a 2-year period. The Board raises virtually all of its revenue through biennial renewal fees.

At Board meetings in December 2007, and May 2008, the Department of State's Bureau of Finance and Operations (BFO) presented a summary of the Board's revenue and expenses. BFO projected a deficit of \$105,254.45 in Fiscal Year (FY) 2007-2008, a deficit of \$153,361.88 in FY year 2009-2010, a deficit of \$374,361.88 in FY 2011-2012 and a deficit of \$748,361.88 in FY 2013-2014. According to the information presented, it would appear that BFO's 2005 projections were insufficient. The major reason for the deficits is that the number of complaints against veterinarians, particularly allegations of negligence or malpractice which require substantial resources to investigate, review and prosecute, have increased. As a result of the projected deficits, BFO again recommended that the Board raise fees to meet or exceed projected expenditures, in compliance with section 13(b) of the act.

BFO recommended increasing the renewal fee for veterinarians to \$450 and increasing the renewal fee for veterinary technicians to \$115. Upon consideration of the HPLC's recommendation that the Board adopt an incremental increase rather than sporadic, large increases, the Board determined that it would accept the HPLC's recommendation such that a figure close to BFO's recommendation would be achieved over three biennial renewal periods rather than immediately. The Board's proposal would create the following fee schedule over the next 10 years:

	<i>Veterinarians</i>	<i>Veterinary Technicians</i>
Current	\$ 300	\$ 75
November 2010	\$ 360	\$ 90
November 2012	\$ 400	\$ 100
November 2014	\$ 440	\$ 110
November 2016	\$ 490	\$ 120
November 2018	\$ 540	\$ 130
November 2020	\$ 590	\$ 140

In spite of the proposed increases, the Board's new fees will be less than some surrounding states, but will be higher than other surrounding states. The Board is not aware of any other state that has adopted an incremental fee schedule.

Description of Proposed Amendments

Based upon the expense and revenue estimates provided to the Board, the Board proposes to amend § 31.41 to increase the fee for biennial renewal of licenses for veterinarians from \$300 to \$360 for the first biennial period following promulgation of the regulation, and in accordance with the schedule previously listed, over the next five biennial periods. This incremental increase should be less burdensome on the Board's licensees while allowing the Board to meet its statutory obligations.

Fiscal Impact

The proposed rulemaking will increase the biennial renewal fee for veterinarians and veterinary technicians.

The proposed rulemaking should have no other fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

The proposed rulemaking will require the Board to alter some of its forms to reflect the new biennial renewal fees; however, the proposed rulemaking should not create additional paperwork for the private sector.

Sunset Date

The act requires that the Board monitor its revenue and cost on a FY and biennial basis. 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 2, 2009, 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 Senate Consumer 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. Comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final-form 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 Michelle Roberts, Administrative Assistant, State Board of Veterinary Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-5723, Biennial Renewal Fees, when submitting comments.

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

Fiscal Note: 16A-5723. 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

FEES

§ 31.41. Schedule of fees.

An applicant for a license, certificate or service shall submit a payment at the time of the request under the following fee schedule:

[*Veterinarians*] *Veterinarian fees for services:*

* * * * *

[**Biennial renewal**\$300]

* * * * *

Veterinarian biennial renewal:

Biennial renewal fee for biennial period December 1, 2010—November 30, 2012.....	\$360
Biennial renewal fee for biennial period December 1, 2012—November 30, 2014.....	\$400
Biennial renewal fee for biennial period December 1, 2014—November 30, 2016.....	\$440
Biennial renewal fee for biennial period December 1, 2016—November 30, 2018.....	\$490
Biennial renewal fee for biennial period December 1, 2018—November 30, 2020.....	\$540
Biennial renewal fee for biennial period December 1, 2020—November 30, 2022.....	\$590

* * * * *

Veterinary [technicians] technician fees for services:

* * * * *

[Biennial renewal.....	\$75]
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* * * * *

Veterinary technician biennial renewal:

Biennial renewal fee for biennial period December 1, 2010—November 30, 2012.....	\$90
Biennial renewal fee for biennial period December 1, 2012—November 30, 2014.....	\$100
Biennial renewal fee for biennial period December 1, 2014—November 30, 2016.....	\$110
Biennial renewal fee for biennial period December 1, 2016—November 30, 2018.....	\$120
Biennial renewal fee for biennial period December 1, 2018—November 30, 2020.....	\$130
Biennial renewal fee for biennial period December 1, 2020—November 30, 2022.....	\$140

[Pa.B. Doc. No. 09-1721. Filed for public inspection September 18, 2009, 9:00 a.m.]

[49 PA. CODE CH. 31]

Responsibility to Clients and Patients

The State Board of Veterinary Medicine (Board) proposes to amend § 31.21, Principle 7 (relating to rules of professional conduct for veterinarians, responsibility to clients and patients) to read as set forth in Annex A. The amendment would specify two exceptions to the existing rule that veterinarians may choose whom they will serve. First, the proposal would require a veterinarian to provide humane euthanasia to relieve the suffering of an animal physically presented to the veterinarian's facility during the veterinarian's business hours. Second, the proposal would require a veterinarian to provide notice and a reasonable time to secure alternative services if a veterinarian decides to discontinue treatment of an animal.

In addition, the proposal would clarify an existing provision related to protecting the personal privacy of clients. The proposal would also specifically require veterinarians to practice in accordance with current advancements in veterinary medicine and acceptable and

prevailing standards of care, including work with respect to drugs used by a veterinarian. Finally, the proposal would specifically require veterinarians to utilize analgesic drugs and therapies in accordance with current veterinary medical knowledge and acceptable and prevailing standards of care.

Effective Date

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

Statutory Authority

Section 21(11) of the Veterinary Medicine Practice Act (act) (63 P. S. § 485.21(11)) provides that the Board "shall suspend or revoke" a licensee or certificateholder who "depart[s] from or fail[s] to conform to the standards of acceptable and prevailing veterinary medical practice." The Board's proposed subsections (d) and (f) are consistent with this provision.

Section 21(12) of the act provides that the Board "shall suspend or revoke" a licensee or certificateholder who is found guilty of "[e]ngaging in practices in connection with the practice of veterinary medicine which are in violation of the standards of professional conduct as defined herein or prescribed by the rules of the board." Section 5(2) of the act (63 P. S. § 485.5(2)) 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." The Board's proposed amendment of subsections (a)—(c) and (e) update the Board's rules of professional conduct and set forth standards to maintain high standards of integrity, skills and practice in the profession.

Background and Need for Amendments

The Board published an earlier draft of this rulemaking as proposed rulemaking at 37 Pa.B. 1038 (March 3, 2007). The Board received comments from individual veterinarians and the Pennsylvania Veterinary Medical Association (PVMA). Both the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) provided comments as part of their review of the proposed rulemaking. The Board's original proposal related to the refusal to provide emergency services. Based on the extensive comments received by the Board, in writing and at a public hearing held on March 20, 2008, the Board made extensive revisions to the proposal. Due to the extent of the revisions, the Board determined it should republish as proposed rulemaking.

The act was amended in December 2002; in part, the amendments defined "veterinarian-client-patient relationship." See 63 P. S. § 485.3. Based on this statutory amendment, the Board proposes to rename Principle 7 "Responsibility to clients and patients."

The amendment is needed to conform the Board's regulatory mandates with current expectations for professional practice.

Description of Proposed Amendments

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 grave condition that is physically presented to the veterinarian during the veterinarian's regular business hours. The proposed amendment provides that a veterinarian may not refuse to provide humane euthanasia to relieve the suffering of an animal. The proposed amendment requires a veterinarian

COMMENTATOR'S LIST
16A-5723

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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF VETERINARY MEDICINE
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March 11, 2010

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-5723: Biennial Renewal Fees

Dear Chairman Coccodrilli:

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

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 "Robin J. Bernstein".

Robin J. Bernstein, Esquire, Chairperson
State Board of Veterinary Medicine

RJB/TL:rs

Enclosure

cc: Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
Steven V. Turner, Chief Counsel
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel & 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-5723
 SUBJECT: BIENNIAL RENEWAL FEES
 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

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
3/11/10	<i>Klaim P. Nichol</i>	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
		MAJORITY CHAIRMAN <u>Michael P. McGeehan</u>
3/11/10	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
		MAJORITY CHAIRMAN <u>Robert M. Tomlinson</u>
3/11/10	<i>Kathy Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)