

Regulatory Analysis Form

(Completed by Promulgating Agency)



IRRC

Independent Regulatory Review Commission

SECTION I: PROFILE

2010 SEP 10 A 11: 28

RECEIVED
IRRC

(1) Agency:

Department of State, Bureau of Professional and Occupational Affairs

(2) Agency Number:

Identification Number: 16A-51

IRRC Number: 2844

(3) Short Title:

Schedule of Civil Penalties – Veterinarians and Veterinary Technicians

(4) PA Code Cite:

49 Pa. Code § 43b.21a

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

Primary Contact: Teresa Lazo, Counsel, State Board of Veterinary Medicine

Secondary Contact: Joyce McKeever, Deputy Chief Counsel, Regulatory Review

2601 North Third Street, P.O. Box 2647; telephone: 717-783-7200; fax: 717-787-0251; ST-VETERINARY@state.pa.us

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

Michelle Roberts, Board Administrator, State Board of Veterinary Medicine

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

Final Regulation

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

The regulation codifies and amends previously promulgated Act 48 civil penalties for violations of the Veterinary Medicine Practice Act. Most of the penalties were previously promulgated as a statement of policy. Three additional civil penalties are added.

Regulatory Analysis Form

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

- A. The date by which the agency must receive public comments: June 8, 2010
- B. The date or dates on which public meetings or hearings will be held: July 9, 2010
- C. The expected date of promulgation of the proposed regulation as a final-form regulation: Winter 2010-2011
- D. The expected effective date of the final-form regulation: Winter 2010-2011
- E. The date by which compliance with the final-form regulation will be required: Winter 2010-2011
- F. The date by which required permits, licenses or other approvals must be obtained: Not applicable

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

The Board continuously monitors its regulations at its meetings. The Board generally meets 6 to 8 times per year.

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SECTION II: STATEMENT OF NEED

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

Section 5(a) of the act of July 2, 1993 (P. L. 345, No. 48) (Act 48) (63 P. S. § 2205(a)) authorizes the Commissioner, after consultation with licensing boards and commissions in the Bureau of Professional and Occupational Affairs (the Bureau), to promulgate regulations setting forth a schedule of civil penalties, guidelines for their imposition, and procedures for appeal for: (1) operating without a current and valid license, registration, certificate or permit; and (2) violating an act or regulation of a licensing board or commission relating to the conduct or operation of a business or facility licensed by the board or commission.

(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.

No.

(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.

The regulation will improve the efficiency of the Board in handling violations for which a civil penalty is the appropriate sanction.

(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.

No scientific data, studies or references were used in developing the regulation.

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

No one will be adversely affected by the regulation.

(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.

Licensees will be subject to the civil penalties set forth in the regulation for certain violations.

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 regulated community should see a savings based on the streamlined disciplinary process of the citation procedure.

(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.

Local governments will not be affected by the regulation.

(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 save some costs related to the prosecution of violations.

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 08-09	FY +1 09-10	FY +2 10-11	FY +3 11-12	FY +4 12-13	FY +5 13-14
SAVINGS:	\$0	\$0	\$0	\$0	\$0	\$0
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Savings	0	0	0	0	0	0
COSTS:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0		0
State Government	0	0	0	0		0
Total Costs	0	0	0	0	0	0
REVENUE LOSSES:						
Regulated Community	0	0	0	0	0	0
Local Government	0	0	0	0	0	0
State Government	0	0	0	0	0	0
Total Revenue Losses	0	0	0	0	0	0

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

Program	FY -3 2007-2008	FY -2 2008-2009	FY -1 2009-2010	Current FY 2010-2011
State Board of Veterinary Medicine	\$534,896	\$639,923	\$590,339	\$788,000

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

There are no costs or adverse effects. The regulation is a benefit to the Bureau and the Board because it allows for a more streamlined disciplinary process for certain violations.

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 Commissioner previously published the civil penalty schedule as a statement of policy. Neither the Board nor the Commissioner has received any communication from the public regarding the civil penalty schedule, however, the proposal was discussed during public meetings of the Board at which time members of the professional associations and other interested parties and stakeholders are present. No comments were received from the public when the proposed rulemaking was published on May 8, 2010.

(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.

Because the Commissioner had already published most of the civil penalty schedule as a statement of policy, the Board did not consider alternative regulatory provisions. The Commissioner finds that its proposal is the least burdensome 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 Commissioner is not aware of other states that use a civil penalty schedule, although some states use "sanctioning guidelines." Most disciplinary boards determine the appropriate sanction for violations on a case-by-case basis.

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

No.

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.

No additional procedures or expenses are anticipated.

(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.

There are no affected groups such as minorities, elderly, small businesses or farmers known to the Commissioner.

PROPOSED RULEMAKING

BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

[49 PA. CODE CH. 43b]

Schedule of Civil Penalties—Veterinarians and Veterinary Technicians

The Commissioner of Professional and Occupational Affairs (Commissioner) proposes to amend Chapter 43b (relating to Commission of Professional and Occupational Affairs) by rescinding § 43b.21 (relating to schedule of civil penalties—veterinarians and veterinary technicians—statement of policy) and replacing it with § 43b.21a (relating to schedule of civil penalties—veterinarians and certified veterinary technicians), to read as set forth in Annex A.

Effective Date

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

Statutory Authority

Section 5(a) of the act of July 2, 1993 (P. L. 345, No. 48) (Act 48) (63 P. S. § 2205(a)) authorizes the Commissioner, after consultation with licensing boards and commissions in the Bureau of Professional and Occupational Affairs (Bureau), to promulgate regulations setting forth a schedule of civil penalties, guidelines for their imposition, and procedures for appeal for: (1) operating without a current and valid license, registration, certificate or permit; and (2) violating an act or regulation of a licensing board or commission relating to the conduct or operation of a business or facility licensed by the board or commission.

Background and Purpose

Act 48 authorizes agents of the Bureau to issue citations and impose civil penalties under schedules adopted by the Commissioner in consultation with the Bureau's boards and commissions. Act 48 citations streamline the disciplinary process by eliminating the need for formal orders to show cause, answers, adjudications and orders, and consent agreements. At the same time, licensees who receive an Act 48 citation retain their due process right of appeal prior to the imposition of discipline. The use of Act 48 citations has increased steadily since 1996, when the program was first implemented, and they have become an important part of the Bureau's enforcement efforts, with approximately 30% of all sanctions imposed by the Boards and Commissions being accomplished through the Act 48 citation process.

The Commissioner had previously published a policy statement at 37 Pa.B. 2608 (June 9, 2007) establishing Act 48 civil penalties for veterinarians and certified veterinary technicians (CVTs) and now proposes to codify and amend the schedule of civil penalties in this proposed rulemaking. Proposed § 43b.21a sets forth the complete civil penalty schedule for the State Board of Veterinary Medicine (Board). The civil penalties proposed in § 43b.21a were drafted following discussions between the Board and a representative of the Commissioner at regularly scheduled public meetings.

Description of the Proposed Amendments

The proposal would codify and amend the schedule of civil penalties that the Commissioner previously published and add new violations to the Board's Act 48 schedule. The new violations include failure to complete mandatory continuing education, failure to make up a deficiency in continuing education within 6 months of receiving a citation, failure to properly label drugs dispensed to clients and failure to dispense drugs in containers as required by Board regulations.

The Commissioner proposes amendments to alter the time periods and penalties associated with practicing on an expired license. Practice on a lapsed license for up to 6 months would still result in a warning. The second time period, previously 6—24 months, was changed to 7—12 months; the civil penalty would remain the same. The proposal would alter the third time period, previously 24—48 months, to 13—24 months; and would provide for a \$500 civil penalty for CVTs and a \$750 civil penalty for veterinarians. The Commissioner would add another time period, 25—30 months; with a \$750 civil penalty for certified veterinary technicians and a \$1,000 civil penalty for veterinarians. The shortened time periods and increased civil penalties reflect the determination that an enhanced penalty schedule is required to ensure compliance and protect the public.

The Commissioner proposes to add two new offenses to the Act 48 offenses that may be disposed of by issuance of a citation and civil penalty. The two new offenses involve violating a regulation related to the conduct or operation of a veterinary business. Because many drugs prescribed by veterinarians are exclusively animal drugs that are not stocked in commercial human pharmacies, veterinarians operate in-house pharmacies as part of their businesses. Section 31.21 (relating to Rules of Professional Conduct for Veterinarians), Principle 8(c) and (d), of the Board's regulations require veterinarians to properly label prescription drugs dispensed to clients and to dispense drugs in child resistant or original manufacturer's packaging. The Commissioner proposes civil penalties of \$500 for the first offense and \$1,000 for the second offense for violating either of these regulatory provisions. These provisions were modeled after provisions in the Act 48 schedule in § 43b.7 (relating to schedule of civil penalties—pharmacists and pharmacies), which provides for civil penalties for violations under § 27.18 of the State Board of Pharmacy's regulations (relating to standards of practice). Section 43b.7 provides for Act 48 civil penalties for dispensing drugs in "unsuitable containers" and for "lack of required information on container labels."

The Commissioner also proposes a schedule of civil penalties for the failure to complete mandatory continuing education by veterinarians and CVTs during the biennial renewal period preceding license renewal. The proposal calls for a \$25 per credit hour civil penalty for CVTs for the first offense and a \$150 per credit hour civil penalty for veterinarians for the first offense; however, these civil penalties would only apply if the licensee made up the hours of continuing education that were deficient within 6 months of the end of the biennial renewal period. The biennial renewal period for veterinarians and certified veterinary technicians ends on November 30 of even-numbered years. The proposal would require veterinarians and CVTs to make up the number of deficient hours within 6 months or face formal prosecution. The

\$150 proposed civil penalty per credit hour for veterinarians represents a significant increase over the civil penalty of \$50 per credit hour that was adopted by the Board in 2005. Because veterinary medicine is constantly evolving, with new treatments, new surgical techniques, new drugs, and new research, participation in continuing education is vital to the continued competence of veterinarians. The amended civil penalty demonstrates the commitment of the Commissioner and the Board to ensuring that licensees are able to provide high quality care to animals and adequately meet public health needs for veterinary medicine in this Commonwealth.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking would have a positive fiscal impact on the Commonwealth or its political subdivisions, and would reduce the paperwork requirements of both the Commonwealth and the regulated community by eliminating the need for orders to show cause, answers, consent agreements and adjudications/orders for those violations subject to the Act 48 citation process.

Sunset Date

Professional licensure statutes require each bureau and commission to be self-supporting; therefore, bureaus and commissions continually monitor the cost effectiveness of regulations affecting their operations. As a result, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 27, 2010, the Commissioner 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 Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Commissioner, 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 Teresa Lazo, Counsel, State Board of Veterinary Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

BASIL L. MERENDA,
Commissioner

Fiscal Note: 16A-51. 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 43b. COMMISSIONER OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
SCHEDULE OF CIVIL PENALTIES, GUIDELINES FOR IMPOSITION OF CIVIL PENALTIES AND PROCEDURES FOR APPEAL

§ 43b.21. [Schedule of civil penalties—veterinarians and veterinary technicians—statement of policy] (Reserved).

[STATE BOARD OF VETERINARY MEDICINE

<i>Violation under 63 P. S.</i>	<i>Violation under 49 Pa. Code Chapter 31</i>	<i>Title/Description</i>	<i>Civil Penalty</i>
Section 485.17	N/A	Failure to display current license.	Each offense—\$100
Section 485.21(1)	§ 31.21 Principle 5(c)	Improper advertising of emergency services.	First offense—\$250, Second offense—\$1,000 Subsequent offense—formal action
Sections 485.9(a) and 485.21(1)	§ 31.13	Practicing veterinary medicine on an expired license.	0—6 months—warning 6—24 months—\$500 24—48 months—\$1,000 More than 48 months—formal prosecution
Section 485.21(1)	§ 31.36	Practicing as a veterinary technician on an expired certificate.	0—6 months—warning 6—24 months—\$250 24—48 months—\$500 More than 48 months—formal action]

§ 43b.21a. Schedule of civil penalties—veterinarians and certified veterinary technicians.

STATE BOARD OF VETERINARY MEDICINE

<i>Violation under 63 P. S.</i>	<i>Violation under 49 Pa. Code Chapter 31</i>	<i>Title/Description</i>	<i>Civil Penalty</i>
Sections 485.17 and 485.21(3)	N/A	Failure to display current license.	Each offense—\$100

<i>Violation under 63 P. S.</i>	<i>Violation under 49 Pa. Code Chapter 31</i>	<i>Title/Description</i>	<i>Civil Penalty</i>
Section 485.21(1)	§ 31.21 Principle 5(c)	Improper advertising of emergency services.	First offense—\$250 Second offense—\$1,000 Subsequent offense—formal action
Sections 485.9(a) and 485.21(1)	§ 31.13	Practicing veterinary medicine on an expired license.	0—6 months—warning 7—12 months—\$500 13—24 months—\$750 25—30 months—\$1,000 More than 30 months—formal action
Section 485.21(1)	§ 31.36	Practicing veterinary technology on an expired certificate.	0—6 months—warning 7—12 months—\$250 13—24 months—\$500 25—30 months \$750 More than 30 months—formal action
Section 485.18	§ 31.15	Failure of veterinarian to complete required continuing education during the preceding biennial renewal period, which is corrected within 6 months.	First offense—\$150 per credit hour Second offense—formal action
Section 485.18	§ 31.36(a)	Failure of certified veterinary technician to complete required continuing education during the preceding biennial renewal period, which is corrected within 6 months.	First offense—\$25 per credit hour Second offense—formal action
Section 485.21(1)	§ 31.21 Principle 8(d)	Improper labeling of dispensed drugs.	First offense—\$500 Second offense—\$1,000 Subsequent offense—formal action
Section 485.21(1)	§ 31.21 Principle 8(c)	Improper packaging of dispensed drugs.	First offense—\$500 Second offense—\$1,000 Subsequent offense—formal action

[Pa.B. Doc. No. 10-827. Filed for public inspection May 7, 2010, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 86]

Unsuitable for Surface Mining; Muddy Run

The Environmental Quality Board (Board) proposes to amend Chapter 86 (relating to surface and underground coal mining; general). The amendment designates the surface mineable reserves of the Lower Kittanning, Clarion, Brookville and Mercer coals within the headwaters of the Muddy Run Watershed, Reade Township, Cambria County as unsuitable for surface mining operations.

This proposal was adopted by the Board at its meeting of March 16, 2010.

A. Effective Date

This proposed amendment will go into effect upon publication in the *Pennsylvania Bulletin* as final rulemaking.

B. Contact Persons

For further information, contact Geoffrey Lincoln, Bureau of Mining and Reclamation, P. O. Box 8461, Rachel Carson State Office Building, Harrisburg, PA 17105-8461, (717) 787-5103; or Richard Morrison, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposal appears in section J of this preamble. Persons with a disability may use the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposal is available electronically through the Department of Environmental Protection's (Department) web site at <http://www.dep.state.pa.us>.

C. Statutory Authority

The proposed rulemaking is being made under the authority of section 4.5 of the Surface Mining Conservation and Reclamation Act (act) (52 P.S. § 1396.4e); section 6.1 of the Coal Refuse Disposal Control Act (52 P.S. § 30.56a); and section 315 (h)—(o) of The Clean Streams Law (35 P.S. § 691.315 (h)—(o)).

COMMENTATORS LIST
REGULATION 16A-51
STATE BOARD OF VETERINARY MEDICINE
SCHEDULE OF CIVIL PENALTIES
VETERINARIANS AND CERTIFIED VETERINARY TECHNICIANS

There are no public comments for this regulation.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

RECEIVED
IRRC

2010 SEP 10 A 11:28

(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 or Independent Agencies.

BY: _____
(DEPUTY ATTORNEY GENERAL)

Department of State
Bureau of Professional and Occupational Affairs
(AGENCY)

BY: *Andrew C. Clark*

DOCUMENT/FISCAL NOTE NO. 16A-51

AUG 25 2010

DATE OF APPROVAL

DATE OF ADOPTION:

BY: *Basil L. Merenda*
Basil L. Merenda

DATE OF APPROVAL

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

TITLE: Commissioner
(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
49 PA. CODE, CHAPTER 43b
SCHEDULE OF CIVIL PENALTIES
VETERINARIANS AND CERTIFIED VETERINARY TECHNICIANS

The Commissioner of Professional and Occupational Affairs (Commissioner) amends Chapter 43b by deleting § 43b.21 (relating to schedule of civil penalties – veterinarians and certified veterinary technicians – statement of policy) and replacing it with § 43b.21a (relating to schedule of civil penalties – veterinarians and certified veterinary technicians) to read as set forth in Annex A.

Effective date

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

Statutory authority

Section 5(a) of the act of July 2, 1993 (P. L. 345, No. 48) (Act 48) (63 P. S. § 2205(a)) authorizes the Commissioner, after consultation with licensing boards and commissions in the Bureau of Professional and Occupational Affairs (the Bureau), to promulgate regulations setting forth a schedule of civil penalties, guidelines for their imposition, and procedures for appeal for: (1) operating without a current and valid license, registration, certificate or permit; and (2) violating an act or regulation of a licensing board or commission relating to the conduct or operation of a business or facility licensed by the board or commission.

Summary of Comments and Board's Response

The Commissioner did not receive any comments from the public following publication of proposed rulemaking. The House Professional Licensure Committee (HPLC) submitted comments on June 9, 2010. HPLC recommended that the sections of the proposed rulemaking be reorganized so that each section remain consistent with the previously stated profession. The Board prefers to organize the regulation according to violation rather than licensee class.

HPLC requested information on how the Commissioner monitors the civil penalty time periods to ensure compliance with the proposed regulation. Also related to time periods, HPLC questioned the need for adding a new civil penalty time period of 25 to 30 months and requested an explanation on how the Commissioner determined the amount of a civil penalty for practicing in a lapsed license. Based on the records kept by the Board, the Commissioner is able to monitor the date when a license to practice veterinary medicine has expired. When the licensee applies to renew the license, the Commissioner is able to determine the number of months that have lapsed by counting back from the date of attempted renewal to the date of expiration, as shown by the Board's records. A new civil penalty was added for the time period of 25 to 30 months because licensees who have forgotten to renew generally only realize their licenses are expired at the end of

a biennial renewal period. This new 25 to 30 month period will provide a simplified disciplinary process for licensees who have failed to renew for 2 biennial periods. The additional civil penalty during this 25 to 30 month time period is appropriately the highest civil penalty, in that the biennial renewal period has lapsed, yet it provides the licensees with the opportunity to renew licenses without formal action, saving the Commonwealth's money by reducing unnecessary formal actions.

Finally, HPLC requested an explanation on why a category of failing to display a current certificate for CVTs with civil penalty is not included. Neither the Veterinary Medicine Practice Act nor the Board's regulations require CVTs to display their certificates; therefore, no civil penalty can be imposed for failing to display a current certificate. The Board is considering a rulemaking to require CVTs to display their current certificates and will adopt a civil penalty for violating the regulatory provision when it is promulgated.

The Independent Regulatory Review Commission (IRRC) submitted comments on July 7, 2010. IRRC noted the comments made by HPLC and stated that it would review the responses to the issues raised by HPLC in their determination of whether the final regulation is in the public interest.

Fiscal Impact and Paperwork Requirements

The final rulemaking would have a positive fiscal impact on the Commonwealth or its political subdivisions, and would reduce the paperwork requirements of both the Commonwealth and the regulated community by eliminating the need for orders to show cause, answers, consent agreements and adjudications/orders for those violations subject to the Act 48 citation process.

Sunset Date

Professional licensure statutes require each board and commission to be self-supporting; therefore, boards and commissions continually monitor the cost effectiveness of regulations affecting their operations. As a result, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 27, 2010, the Board submitted a copy of the notice of proposed rulemaking, published at 40 Pa.B. 2423 (May 8, 2010), 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, HPLC and 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 from IRRC, HPLC, SCP/PLC and the public.

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

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 § 31.21 (relating to rules of professional conduct for veterinarians) 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*.

Basil L. Merenda,
Commissioner
Bureau of Professional and Occupational
Affairs

ANNEX A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 43b. COMMISSIONER OF PROFESSIONAL AND OCCUPATIONAL
AFFAIRS

SCHEDULE OF CIVIL PENALTIES, GUIDELINES FOR IMPOSITION OF CIVIL
PENALTIES AND PROCEDURES FOR APPEAL

* * * * *

§ 43b.21. [Schedule of civil penalties – veterinarians and veterinary technicians – statement of policy] (Reserved).

[STATE BOARD OF VETERINARY MEDICINE

Violation under 63 P.S.	Violation under 49 Pa. Code Chapter 31	Title/Description	Civil Penalty
Section 485.17	N/A	Failure to display current license.	Each offense - \$100
Section 485.21(1)	§ 31.21 Principle 5(c)	Improper advertising of emergency services.	First offense - \$250 Second offense - \$1,000 Subsequent offense – formal action

16A-51 Final
 Schedule of Civil Penalties –
 Veterinarians/Veterinary Technicians
 August 3, 2010

Sections 485.9(a) and 485.21(1)	§ 31.13	Practicing veterinary medicine on an expired license.	0 – 6 months – warning 6 – 24 months - \$500 24 – 48 months - \$1,000 More than 48 months – formal prosecution
Section 485.21(1)	§ 31.36	Practicing as a veterinary technician on an expired certificate.	0 – 6 months – warning 6 – 24 months - \$250 24 months – 48 months - \$500 More than 48 months – formal action]

§ 43b.21a. Schedule of civil penalties – veterinarians and certified veterinary technicians.

STATE BOARD OF VETERINARY MEDICINE

<u>Violation under 63 P.S.</u>	<u>Violation under 49 Pa. Code Chapter 31</u>	<u>Title/Description</u>	<u>Civil Penalty</u>
<u>Section 485.17 and</u>	<u>N/A</u>	<u>Failure to display current</u>	<u>Each offense - \$100</u>
<u>Section 485.21(3)</u>		<u>license.</u>	
<u>Section 485.21(1)</u>	<u>§ 31.21</u>	<u>Improper advertising of</u>	<u>First offense - \$250</u>
	<u>Principle 5(c)</u>	<u>emergency services.</u>	<u>Second offense - \$1000</u>
			<u>Subsequent offense – formal action</u>

<u>Sections 485.9(a)</u> <u>and 485.21(1)</u>	<u>§ 31.13</u>	<u>Practicing veterinary</u> <u>medicine on an expired</u> <u>license.</u>	<u>0 – 6 months – warning</u> <u>7 – 12 months - \$500</u> <u>13 – 24 months - \$750</u> <u>25 – 30 months - \$1,000</u> <u>More than 30 months –</u> <u>formal action</u>
<u>Section 485.21(1)</u>	<u>§ 31.36</u>	<u>Practicing veterinary</u> <u>technology on an expired</u> <u>certificate.</u>	<u>0 – 6 months – warning</u> <u>7 – 12 months - \$250</u> <u>13 – 24 months - \$500</u> <u>25 – 30 months \$750</u> <u>More than 30 months –</u> <u>formal action</u>
<u>Section 485.18</u>	<u>§ 31.15</u>	<u>Failure of veterinarian to</u> <u>complete required</u> <u>continuing education during</u> <u>the preceding biennial</u> <u>renewal period, which is</u> <u>corrected within 6 months.</u>	<u>First offense –</u> <u>\$150 per credit hour</u> <u>Second offense – formal</u> <u>action</u>
<u>Section 485.18</u>	<u>§ 31.36(a)</u>	<u>Failure of certified</u> <u>veterinary technician to</u> <u>complete required</u>	<u>First offense – \$25 per</u> <u>credit hour</u> <u>Second offense – formal</u>

continuing education during action

the preceding biennial

renewal period, which is

corrected within 6 months.

<u>Section 485.21(1)</u>	<u>§ 31.21</u>	<u>Improper labeling of</u>	<u>First offense - \$500</u>
	<u>Principle 8(d)</u>	<u>dispensed drugs.</u>	<u>Second offense - \$1000</u>
			<u>Subsequent offense –</u>
			<u>formal action</u>

<u>Section 485.21(1)</u>	<u>§ 31.21</u>	<u>Improper packaging of</u>	<u>First offense - \$500</u>
	<u>Principle 8(c)</u>	<u>dispensed drugs.</u>	<u>Second offense - \$1000</u>
			<u>Subsequent offense –</u>
			<u>formal action</u>



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-7200

September 10, 2010

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

Re: Final Regulation
Bureau of Professional and Occupational Affairs
16A-51: Schedule of Civil Penalties Veterinarians and Certified
Veterinary Technicians

Dear Chairman Coccodrilli:

Enclosed is a copy of a final rulemaking package of the Commissioner of Bureau of Professional and Occupational Affairs pertaining to the schedule of civil penalties for veterinarians and certified veterinary technicians.

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 "Basil L. Merenda".

Basil L. Merenda,
Commissioner
Bureau of Professional and Occupational Affairs

BLM/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-51

SUBJECT: SCHEDULE OF CIVIL PENALTIES – VETERINARIANS AND
CERTIFIED VETERINARY TECHNICIANS

RECEIVED
IRRC

2010 SEP 10 A 11: 28

AGENCY: DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

TYPE OF REGULATION

Proposed Regulation

X Final Regulation

Final Regulation with Notice of Proposed Rulemaking Omitted

120-day Emergency Certification of the Attorney General

120-day Emergency Certification of the Governor

Delivery of Tolled Regulation

a. With Revisions b. Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
9/10/10	<i>Michael P. McGeehan</i>	HOUSE COMMITTEE ON STATE GOVERNMENT MAJORITY CHAIRMAN <u>Michael P. McGeehan</u>
9/10/10	<i>Mary Walmer</i>	SENATE COMMITTEE ON STATE GOVERNMENT MAJORITY CHAIRMAN <u>Robert M. Tomlinson</u>
9/10/10	<i>St. Belmont</i>	INDEPENDENT REGULATORY REVIEW COMMISSION ATTORNEY GENERAL (for Final Omitted only) LEGISLATIVE REFERENCE BUREAU (for Proposed only)