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INDEPENDENT REGULATORY REVIEW COMMISSION

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

September 22, 2010

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

Re: Regulation #16A-5724 (IRRC #2858)
State Board of Veterinary Medicine
License Renewal; Continuing Education

Dear Mr. 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 Julie Harhart, Minority Chairman, House Professional Licensure Committee
Honorable Basil L. Merenda, Acting 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-5724 (IRRC #2858)

License Renewal; Continuing Education

September 22, 2010

We submit for your consideration the following comments on the proposed rulemaking published in the July 24, 2010 *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.

1. Comments on behalf of the House Professional Licensure Committee. – Reasonableness; Clarity.

In a letter dated September 13, 2010, Chairman Michael P. McGeehan and Republican Chair Julie Harhart, on behalf of the House Professional Licensure Committee (Committee), submitted comments on this regulation. The Committee comments are:

- The Committee brings to the Board's attention that, in the Background and Need for Amendments, reference is made to the fact that the American Association of Veterinary State Boards (AAVSB) program has approved over 400 candidates and is now accepted in 29 "jurisdictions states", including New York and Virginia (spelling was corrected since delivery). The Committee requests a clarification of what is meant by "jurisdictions states."
- The Committee brings to the Board's attention that, in the Background and Need for Amendments, addressing the deletion of provisions and fees regarding temporary permits, the citation should be corrected to read (63 P.S. §485.10).
- The Committee brings to the Board's attention that since § 31.13, License renewal, is being amended, the fourth sentence should read in part "Upon renewing their licenses, licensees will receive...."

- The Committee questions that in § 31.13(b) whether the District of Columbia is included in the amended reference of "another state, territory, country, or by a Federal authority in the United States."
- The Committee requests an explanation for the use of the term licensee in § 31.13(e)(i) when referring in a list of individuals who are required to apply for a license in accordance with Section 9 of the Act if practicing *veterinary medicine in the Commonwealth is to be resumed*. Could reference be made to "veterinarian" as is done in § 31.13(e)(ii)-(iii)?
- The Committee questions the term used for a veterinarian who fails to renew a license. Is the term "holder of an expired license" the technical status or is it "licensee"? Reference is made to a holder of an expired license in § 31.13(d) and in newly proposed § 31.13(e)(i), lists individuals who will be required to apply for a license in accordance with § 9 of the Act as "a licensee who practiced veterinary medicine in this Commonwealth on an expired Pennsylvania license for a period of more than 5 years." The Committee recommends some consistency in the use of terms.
- The Committee brings to the Board's attention that upon publication of the proposed regulation in the *Pennsylvania Bulletin*, a subheading caption "Veterinary Technicians and Noncertified Employees" was added. In Proposed Regulation 16A-5718 which is winding its way through the process, the term and definition of Noncertified Employee are being deleted and replaced with the term and definition "Veterinary Assistant." For future consistency, the Committee recommends that the newly proposed term and definition be used in the final rulemaking.

We will review the Board's responses to these issues in our determination of whether the final regulation is in the public interest.

2. Section 31.12. Temporary permits. – Need.

In the Preamble, the Board states:

The Board proposes to rescind § 31.12 because veterinary students currently take the licensure examination prior to completing veterinary school and applicants for licensure by reciprocity do not need temporary permits because the processing time for a license and a permit is the same.

As noted in Section 31.12, temporary permits are established in statute at 63 P.S. § 485.10. Why is the Board deleting the provisions and fee relating to temporary licenses in its regulations while the underlying statute is still in place? Will the statutory provision be deleted before the final-form regulation

is submitted? The Board should further explain in its final-form submittal the need to delete Section 31.12 and the associated temporary permit fee of \$35 from Section 31.41 while 63 P.S. § 485.10 remains in place.

3. Section 31.13. License Renewal. – Clarity.

Under the statute (63 P.S. § 485.18), certification of completion of continuing education “shall be in accordance with regulations of the board.” In Subsection (d) of the regulation, the Board proposes to delete the requirement to demonstrate continuing education for periods in which the license was expired by deleting the following phrase:

certificates of attendance at continuing education courses as required by § 31.15 (relating to continuing education) for the current and preceding biennial renewal periods in which the license was expired, and

The Board replaces this requirement with new language that states:

documentation that the licensee has complied with § 31.15 (related to continuing education).

The amended language does not provide direction on what documentation the Board will accept, whereas the existing language is clearer by requiring certificates of attendance at continuing education courses for the current and preceding biennial renewal periods. We recommend that the Board amend Subsection (d) to provide clear direction on what proof of continuing education the holder of an expired license must provide and for what periods.

4. Section 31.15. Continuing education. – Consistency with statute; Need; Reasonableness; Clarity.

The Board proposes to delete the phrase “As a condition of licensure renewal under § 31.13 (relating to licensure renewal)” which appears at the beginning of this section in existing regulation. Under 63 P.S. § 485.18, licensees are required to complete continuing education preceding each renewal date. We are very concerned that the Board is deleting language from the regulation which clearly states that continuing education is a condition of license renewal. We believe the existing language is in the best interest of the licensees and the Board. We strongly recommend maintaining this language so that it is clear to licensees that a license cannot be renewed if the licensee fails to complete continuing education credits as required by the statute.

5. Fiscal impact of the regulation.

In its Regulatory Analysis Form (RAF), the Board repeatedly states the amendments have no adverse effect and that there are no costs or savings

associated with the amendments. See responses to RAF Questions 15, 17, 18, 19, 20 and 21. Yet, the Board is making three amendments to fees in Section 31.41. The Board should explain, for instance, its response to RAF Question 17 that “No costs or savings to the regulated community are anticipated” when it is imposing new fees on the regulated community for duplicate licenses. We recommend that the Board review the amendments to the regulation and provide amended responses to RAF Questions 15, 17, 18, 19, 20 and 21 in the final-form submittal of the regulation.

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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

To: Tom Blackburn
Cynthia Montgomery
Agency: Department of State
Licensing Boards and Commissions
Phone: 3-7200
3-3394 (Cynthia Montgomery)
Fax: 7-0251
Date: September 22, 2010
Pages: 6

Comments: We are submitting the Independent Regulatory Review Commission's comments on the State Board of Veterinary Medicine's regulation #16A-5724 (IRRC #2858). 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:

Christine Berety
Receptionist

Date:

9-22-10