

Regulatory Analysis Form

(Completed by Promulgating Agency)

(All Comments submitted on this regulation will appear on IRRC's website)



IRRC

Independent Regulatory Review Commission

2012 AUG 13 AM 10:45

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IRRC

(1) Agency:

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

(2) Agency Number: 16A

Identification Number: 16A-5725

IRRC Number: 2909

(3) PA Code Cite: 49 Pa. Code § 31.21, Principle 7

(4) Short Title:

Notice of Animal Supervision

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

Primary Contact: **Teresa Lazo, Counsel, State Board of Veterinary Medicine, P.O. Box 2649, Harrisburg, PA 17105-2649 (phone 717-783-7200) (fax 787-0251) tlazo@pa.gov.**

Secondary Contact: **Cynthia Montgomery, Regulatory Counsel, Department of State, P.O. Box 2649, Harrisburg, PA 17105-2649 (phone 717-783-7200) (fax 787-0251) cymontgome@pa.gov.**

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

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

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

The regulation will require a veterinarian who keeps a client's animal when the practice is closed to inform the owner whether a veterinarian, certified veterinary technician (CVT) or unlicensed assistant will be at the practice and what level of monitoring the animal will receive while the animal is in the care and custody of the veterinarian.

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

This rulemaking is authorized by sections 5(1) and (2) of the Veterinary Medical Practice Act (act) (63 P.S. §§ 485.5(1) and (2), which authorize the Board to adopt regulations relating to professional conduct.

(9) 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.

The regulation is not mandated by any federal or state law, regulation or court order.

(10) 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 is needed because some veterinarians may not be informing their clients that client animals will be left unattended, particularly overnight. The public will benefit from having information pertinent to making decisions about the care they wish to have for their animals. Individuals who wish to have 24-hour monitoring of their animal may choose to transfer their animal to a 24-hour veterinary facility.

(11) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

The rulemaking is not based upon any scientific data, studies or references.

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

The Board is not aware of any individual or group that will be adversely affected by the regulation.

(13) 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 veterinarians who keep clients' animals while the veterinary practice is closed (including overnight and on weekends) will be required to comply with the regulation. The Board estimates that approximately 3,500 veterinarians have in-patient facilities.

(14) 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.

There are no costs or savings to the regulated community associated with this rulemaking.

(15) 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 this rulemaking.

(16) 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.

There are no costs or savings to state government associated with this rulemaking.

(17) 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	N/A	N/A	N/A	N/A	N/A	N/A
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs	N/A	N/A	N/A	N/A	N/A	N/A
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	N/A

(17a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
State Board of Veterinary Medicine	FY 08-09 Actual	FY 09-10 Actual	FY 10-11 Budgeted	FY 11-12 Budgeted
	\$642,927.43	\$591,591.44	\$551,545.72	\$668,000.00

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

There are no costs associated with this rulemaking. The general public will benefit by having information pertinent to making decisions about their animals' care.

(19) 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 House Professional Licensure Committee had no objections, comments or recommendations to offer on the proposed rulemaking. The Independent Regulatory Review Commission had no comments or suggestions on the proposed rulemaking.

The Pennsylvania Veterinary Medical Association submitted a comment, which was considered by the Board and prompted an amendment to the final-form rulemaking.

(20) 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 considered allowing veterinarians to provide notice to clients through a sign posted in the facility, which would be less burdensome than requiring the veterinarian to inform each client individually. Because the Board wished to ensure that clients had this information, direct communication appeared the best option.

(21) 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.

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

The Board is unaware of any other state that imposes this requirement on licensees. However, the duty imposed on veterinarians to provide this information to clients should not adversely affect Pennsylvania's ability to compete with other states.

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

No.

(24) 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.

There are no legal, accounting or consulting procedures or additional reporting, recordkeeping or other paperwork required for implementation of the regulation. The Board periodically reprints its regulations into a booklet for distribution to licensees and the public.

(25) 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 particularly affected groups such as minorities, elderly, small businesses or farmers known to the Board that require any special provisions.

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

- | | |
|---|-----------|
| A. The date by which the agency must receive public comments: | NA |
| B. The date or dates on which public meetings or hearings will be held: | NA |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | Fall 2012 |
| D. The expected effective date of the final-form regulation: | Fall 2012 |
| E. The date by which compliance with the final-form regulation will be required: | Fall 2012 |
| F. The date by which required permits, licenses or other approvals must be obtained: | NA |

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

The Board continuously monitors its regulations. The Board meets approximately 5 – 10 times per year. The Board's meeting dates are announced on its website. Meeting dates for the remainder of 2012 are: July 27, 2012; September 28, 2012; October 19, 2012; and December 21, 2012.

2012 AUG 13 AM 10:45

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

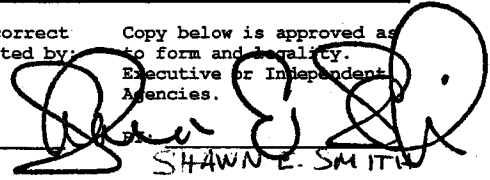
Copy below is hereby approved as to form and legality. Attorney General

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 or Independent Agencies.

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Veterinary Medicine
(AGENCY)



SHAWN E. SMITH

DOCUMENT/FISCAL NOTE NO. 16A-5725

AUG 01 2012

DATE OF APPROVAL

DATE OF ADOPTION: _____

DATE OF APPROVAL

BY: _____
Robin J. Bernstein, Esq.

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

TITLE: Chairperson
(EXECUTIVE OFFICER, CHAIRPERSON 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, § 31.21

NOTICE OF ANIMAL SUPERVISION

The State Board of Veterinary Medicine (Board) hereby amends § 31.21 (relating to Rules of Professional Conduct for Veterinarians) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

Section 5(1) and (2) of the Veterinary Medicine Practice Act (act) (63 P.S. § 485.5(1) and (2)) authorizes the Board to adopt reasonable 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.

Summary of Comments to Proposed Rulemaking and the Board's Response

The Board published notice of proposed rulemaking in the *Pennsylvania Bulletin* on September 17, 2011, at 41 Pa.B. 4982, and requested public comments. The Board received one comment from the public. The Pennsylvania Veterinary Medical Association (PVMA) wrote that it was very supportive of the goal of ensuring that clients are aware of any time during which their pet will be left unattended. Nevertheless, PVMA noted that a significant proportion of its membership was uncomfortable with the requirement that veterinarians provide notice to clients of the level of supervision that will be provided at all times. By way of example, PVMA stated that if a client were to drop a pet off at 7:00 a.m. and the doctor was not scheduled to arrive until 9:00 a.m., it would be necessary to provide notification to the client to that effect. PVMA suggested that if the pet is never left alone, there should not be a requirement to inform the client what type of employee would supervise the client's pet.

The Board has amended the proposed rulemaking to apply only to periods of time when the veterinarian's office is closed. The Board believes that there are very few practices that close in the middle of the day (rather than overnight) so notification will generally be limited to overnights and weekends. For those practices that do close in the middle of the day, a simple oral notification to the client when the client drops off his or her animal, that, for example, the practice is closed during the lunch hour at which time the animal will be secured in a kennel but without supervision, would be sufficient. The Board does not view this as an unreasonable hardship on its licensees, particularly when balanced against the benefit to clients knowing whether a hospitalized animal will be monitored overnight or over a weekend.

The House Professional Licensure Committee reviewed the proposed regulation at a meeting on October 26, 2011, and had no comments to submit to the Board. The Senate Consumer Protection and Professional Licensure Committee likewise submitted no comments.

The Independent Regulatory Review Commission informed the Board on November 16, 2011, that it had no objections, comments or recommendations to offer on the proposal.

Description of Amendments to the Final-Form Rulemaking

The provision as amended will require a veterinarian who keeps a client's animal while the practice is closed (including evenings and weekends) to inform the animal's owner whether a veterinarian, certified veterinary technician (CVT) or unlicensed veterinary assistant will be on the premises with the animal and what level of monitoring will be provided to the animal.

Fiscal Impact and Paperwork Requirements

The regulation may have a small fiscal and paperwork impact on licensees who choose to provide written notice to their clients. The Board believes that the final-form rulemaking will not have any other fiscal or paperwork impact on licensees, the Board or any other Commonwealth entity.

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)), on September 6, 2011, the Board submitted a copy of the notice of proposed rulemaking, published at 41 Pa.B. 4982 (September 17, 2011), to the Independent Regulatory Review Commission 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.

The Board received one comment from the public. The HPLC, SCP/PLC, and IRRC did not submit comments. In preparing the final-form rulemaking, the Board considered the public comment.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on September 28, 2011, the final-form rulemaking was approved by HPLC. On _____, 2012, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____, 2012, 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. The amendments to the final-form rulemaking do not enlarge the purpose of proposed rulemaking published at 41 Pa.B. 4982.
4. 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 regulation of the Board at 49 Pa. Code § 31.21 is 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

* * * * *

PROFESSIONAL CONDUCT

§ 31.21. Rules of Professional Conduct for Veterinarians.

* * * * *

Principle 7. Responsibility to clients and patients.

* * * * *

(i) ~~A veterinarian who assumes the care and custody of an~~ KEEPS A CLIENT'S animal WHILE THE PRACTICE IS CLOSED (INCLUDING EVENINGS AND WEEKENDS) shall inform each THE client, either orally or in writing, whether a veterinarian, certified veterinary technician or veterinary assistant will be on the premises during the time the animal is at the veterinarian's facility, (including evenings and weekends), and what level of monitoring the animal will receive during the time the animal is at the veterinarian's facility THAT TIME.

* * * * *

(12) Participating in a National physical therapy or interdisciplinary (including physical therapy) organization as an officer or chair of a physical therapy services committee or physical therapy services task force member for at least 1 year—5 contact hours for each full year of participation.

(13) Participation in a State physical therapy or interdisciplinary (including physical therapy) organization as an officer or chair of a physical therapy services committee for at least 1 year—5 hours for each full year of participation.

(14) Participation in a local physical therapy or interdisciplinary (including physical therapy) organization as an officer or chair of a physical therapy services committee for at least 1 year—as determined by the Board not to exceed 5 contact hours in any single renewal cycle.

(15) Participation in a physical therapy professional organization committee involved with physical therapy services for at least 1 year—as determined by the Board not to exceed 5 contact hours in a single renewal cycle.

(16) Other continuing competence activities—as determined by the Board.

[Pa.B. Doc. No. 11-1599. Filed for public inspection September 16, 2011, 9:00 a.m.]

STATE BOARD OF VETERINARY MEDICINE

[49 PA. CODE CH. 31]

Professional Conduct; Notice of Animal Supervision

The State Board of Veterinary Medicine (Board) proposes to amend § 31.21 (relating to Rules of Professional Conduct for Veterinarians) to read as set forth in Annex A.

Effective Date

The proposed rulemaking will be effective upon final publication in the *Pennsylvania Bulletin*.

Statutory Authority

Section (5)(1) and (2) of the Veterinary Medicine Practice Act (act) (63 P. S. § 485.5(1) and (2)) authorizes the Board to adopt reasonable 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.

Background and Need for Amendments

It has come to the attention of the Board that clients are often unaware that their animals are left unattended in a veterinary facility overnight. The Board believes that the client should be informed of what type of practitioner—veterinarian, certified veterinary technician or veterinary assistant—will attend the client's animal while it is in the veterinary facility and what level of monitoring will be provided to the client's animal, especially when the animal is left overnight and on weekends.

Description of Proposed Amendments

The Board proposes to amend § 31.21, Principle 7, regarding a veterinarian's responsibility to clients and patients, to provide that a veterinarian who assumes the

care and custody of an animal shall inform each client, either orally or in writing, whether a veterinarian, certified veterinary technician or veterinary assistant will be on the premises during the time the animal is at the veterinarian's facility, including evenings and weekends, as well as what level of monitoring the animal will receive during the time the animal is at the veterinarian's facility. The term "each client" is used to indicate that a sign posted in the veterinary facility is not sufficient to provide a client with this notification.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking may have a small financial impact on licensees who choose to provide written notice to the public. The proposed rulemaking will not have fiscal impact on the public.

Sunset Date

The Board continuously monitors its regulations. Therefore, a sunset date has not been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 6, 2011, 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 the Chairpersons of the House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review 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, recommendations or objections regarding this proposed rulemaking to Michelle Roberts, Board Administrator, State Board of Veterinary Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649, www.dos.state.pa.us/vet within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

ROBIN J. BERNSTEIN, Esq.,
Chairperson

Fiscal Note: 16A-5725. 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

PROFESSIONAL CONDUCT

§ 31.21. Rules of Professional Conduct for Veterinarians.

* * * * *

Principle 7. Responsibility to clients and patients.

* * * * *

(i) A veterinarian who assumes the care and custody of an animal shall inform each client, either orally or in writing, whether a veterinarian, certified veterinary technician or veterinary assistant will be on the premises during the time the animal is at the veterinarian's facility, including evenings and weekends, and what level of monitoring the animal will receive during the time the animal is at the veterinarian's facility.

* * * * *

[Pa.B. Doc. No. 11-1600. Filed for public inspection September 16, 2011, 9:00 a.m.]

State Board of Veterinary Medicine
16A-5725 – Notice of Animal Supervision
Public Commentators

Tom Garg, V.M.D.
Co-Chair, Legislative and Regulatory Affairs Committee
Pennsylvania Veterinary Medical Association
8574 Paxton Street
Hummelstown, PA 17036
Phone: 717-220-1437 or 888-550-7862
Fax: 717-220-1461
www.pavma.org



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF VETERINARY MEDICINE

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-7134

August 13, 2012

The Honorable Silvan B. Lutkewitte, III, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harristown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Final Regulation
State Board of Veterinary Medicine
16A-5725: NOTICE OF ANIMAL SUPERVISION

Dear Chairman Lutkewitte:

Enclosed is a copy of a final rulemaking package of the State Board of Veterinary Medicine pertaining to Notice of Animal Supervision.

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: Katie True, Commissioner
Bureau of Professional and Occupational Affairs
Rebecca Oyler, Director of Policy, Department of State
Steven V. Turner, Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
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-5725

SUBJECT: NOTICE OF ANIMAL SUPERVISION

AGENCY: DEPARTMENT OF STATE (STATE BOARD OF VETERINARY MEDICINE)
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

TYPE OF REGULATION

- Proposed Regulation
- XX 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

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IBRC**

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
_____	_____	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
8/13/12	<i>Michelle Warren</i>	MAJORITY CHAIR <u>Julie Harhart</u>
8/13/12	<i>Mary Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
_____	_____	MAJORITY CHAIR <u>Robt. M. Tomlinson</u>
8/13/12	<i>K Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL (for Final Omitted only)
_____	_____	LEGISLATIVE REFERENCE BUREAU (for Proposed only)