

Regulatory Analysis Form

(Completed by Promulgating Agency)



IRRC

Independent Regulatory Review Commission

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-5725

IRRC Number:

2909

(3) Short Title:

Notice of Animal Supervision

(4) PA Code Cite:

49 Pa. Code § 31.21, Principle 7

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

Primary Contact: Teresa Lazo, Counsel, State Board of Veterinary Medicine, st-veterinary@state.pa.us

Secondary Contact: Cynthia K. Montgomery, Regulatory Counsel, cymontgome@state.pa.us

2601 N. Third Street, P.O. Box 2649, Harrisburg, PA 17105-2649

phone: 717-783-7200

fax: 717-787-0251

(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, st-veterinary@state.pa.us

(All Comments will appear on IRRC'S website)

(7) 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

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

The proposal would require a veterinarian who assumes the care and custody of an animal to inform each client what type of practitioner will supervise the animal and what level of monitoring the animal will receive while the animal is in the care and custody of the veterinarian.

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

A. The date by which the agency must receive public comments: 30 days from publication in the PA Bulletin

B. The date or dates on which public meetings or hearings will be held: No specific date has been scheduled. The Board holds monthly meetings and considers public comment at those meetings.

C. The expected date of promulgation of the proposed regulation as a final-form regulation: Within 2 years of publication as proposed rulemaking.

D. The expected effective date of the final-form regulation: Date of publication in the PA Bulletin as final Anticipated Spring of 2012.

E. The date by which compliance with the final-form regulation will be required: Date of publication in the PA Bulletin as final Anticipated Spring of 2012.

F. The date by which required permits, licenses or other approvals must be obtained: N/A

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

The Board continuously reviews its regulations. The Board meets every other month throughout the year. The Board's remaining 2011 meeting dates are as follows: July 15, September 16, October 13 and December 16.

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SECTION II: STATEMENT OF NEED

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

Section 5(1) and (2) of the act (63 P.S. § 485.5 (1) and (2)) authorizes the Board to adopt regulations to effectuate the act. Section 21(12) of the act (63 P.S. § 485.21(12)) authorizes the Board to impose discipline against a veterinarian who violates the rules of professional conduct prescribed by the Board.

(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 is needed because many veterinarians do not inform 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.

(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.

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

(15) Describe who and how many 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.

(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 veterinarians who assume the care and custody of an animal will be required to comply with the regulation. The Board anticipates that approximately 3500 veterinarians have in-patient facilities.

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.

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

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

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(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:	\$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	0
State Government	0	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 07-08 Actual	FY 08-09 Actual	FY 09-10 Projected	FY 10-11 Budgeted
State Board of Veterinary Medicine	\$534,176	\$644,668	\$587,850	\$788,000

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(21) 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.

(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 provided a draft of the rulemaking to its stakeholders and solicited comments. The Board received 4 comments and considered these comments at its December 10, 2010, meeting. The Board will also solicit comments from the public and its stakeholders when the rulemaking is published in the Pennsylvania Bulletin.

(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 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.

(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.

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(25) 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.

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

No.

(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 Board that require any special provisions.

Regulatory Analysis Form

SUPPLEMENTAL PAGE VALID FOR USE THROUGH 11/1/2011

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY
REVIEW COMMISSION

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

(1) Agency: Department of State, Bureau of Professional and Occupational Affairs, State Board of Veterinary Medicine

(2) Agency Number: 16A
Identification Number: 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, st-vetreinary@pa.gov
Secondary Contact: Cynthia Montgomery, Regulatory Counsel, cymontgomery@pa.gov
2601 N. Third St., P.O. Box 2649, Harrisburg, PA 17105-2649
Phone: (717) 783-7200 Fax: (717) 787-0251

(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) 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 proposed rulemaking is not based upon any data, studies or references.

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

[Signature]

BY: _____
(DEPUTY ATTORNEY GENERAL)

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

State Board of Veterinary Medicine
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 16A-5725

DATE OF ADOPTION: _____

BY: _____
Robin Bernstein, Esquire

TITLE: Chairman
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Copy below is approved as to form and legality. Executive or Independent Agencies.

[Signature]

BY: _____
Andrew C. Clark

AUG 1 2011

DATE OF APPROVAL

AUG 19 2011

DATE OF APPROVAL

- [] Check if applicable. Copy not approved. Objections attached.
- [] Check if applicable. No Attorney General approval or objection within 30 day after submission.

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

PROPOSED RULEMAKING

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

49 Pa. CODE § 31.21, Principle 7
NOTICE OF ANIMAL SUPERVISION

The State Board of Veterinary Medicine (Board) proposes to amend § 31.21 (relating to rules of professional conduct), to read as set forth in Annex A.

Effective Date

The amendments will be effective upon publication of the final-form rulemaking 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 (relating to Rules of Professional Conduct for Veterinarians), Principle 7, pertaining to 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 amendment may have a small financial impact on licensees who choose to provide written notice to the public. The proposed amendment will have no fiscal impact on the public.

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 this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC), and the House Professional Licensure Committee (HPLC). 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 must specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review of comments, recommendations and objections by the Board, the General Assembly, and the Governor, prior to final publication of the rulemaking.

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, Pennsylvania, 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.,
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 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.

* * * * *



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

September 6, 2011

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

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

Dear Chairman Lutkewitte:

Enclosed is a copy of a proposed 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 Bernstein".

Robin Bernstein, Esquire, Chairperson
State Board of Veterinary Medicine

RB/TL:klh

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

TYPE OF REGULATION

- X 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
		HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
9/6/11	<i>Annie Kelly</i>	MAJORITY CHAIRMAN <u>Julie Harhart</u>
9/6/11	<i>May Walmer</i>	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
		MAJORITY CHAIRMAN <u>Robert M. Tomlinson</u>
9/6/11	<i>K Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
9/6/11	<i>n. nichols</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)