

# RULES AND REGULATIONS

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

### STATE BOARD OF VETERINARY MEDICINE

[ 49 PA. CODE CH. 31 ]

#### Euthanasia

The State Board of Veterinary Medicine (Board) adds the heading, Subchapter A (relating to veterinarians, certified veterinary technicians and veterinary assistants), to existing §§ 31.1—31.41, and Subchapter B (relating to animal protection organizations and euthanasia technicians), §§ 31.101—31.115 and 31.121—31.130, to read as set forth in Annex A. This final-form rulemaking implements the act of October 24, 2012 (P.L. 1452, No. 182) (Act 182) by providing for the licensure and regulation of animal protection organizations to purchase and possess drugs for euthanasia (certificate holders) and euthanasia technicians to administer drugs for euthanasia.

#### *Effective Date*

This final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

#### *Statutory Authority*

Act 182, which amended the Animal Destruction Method Authorization Law (ADMAL) (3 P.S. §§ 328.101—328.1102), requires the Board to promulgate by regulation the requirements for licensure and regulation of animal protection organizations to purchase and possess drugs for euthanasia and euthanasia technicians to administer drugs for euthanasia under section 304 of ADMAL (3 P.S. § 328.304). Section 5(1) of the Veterinary Medicine Practice Act (act) (63 P.S. § 485.5(1)) authorizes the Board to “[a]dopt rules and regulations governing the practice of veterinary medicine as are necessary to enable it to carry out and make effective the purpose and intent of [the act].” Section 13 of the act (63 P.S. § 485.13(a)) authorizes the Board to “fix the fees required for examination, licensure, certification, registration, renewal of licenses and registrations, renewal of certificates and temporary permits.”

#### *Background and Purpose*

Act 182 prohibited the use of carbon monoxide chambers for euthanasia of small domestic animals in this Commonwealth. Act 182 also provided a legal means for animal protection organizations that operate shelters in which sick, injured or unwanted animals are euthanized to purchase and possess drugs for euthanasia. Additionally, Act 182 created a new class of licensee, to be regulated by the Board, who are individuals who have completed a training program qualifying them to humanely perform euthanasia of small domestic animals. Prior to enactment, licensure was not required and training was not uniform for these individuals. Act 182 gives the Board broad authority to develop criteria for licensure, regulation of the performance of euthanasia consistent with ADMAL and the act and for institution of discipline against these new classes of licensees regulated by the Board.

The Board consulted with the Department of Agriculture (PDA) to obtain a list of all nonprofit kennels licensed in this Commonwealth and sent a draft rulemaking to these parties, as well as numerous animal

protection organizations and veterinarians practicing in the field of shelter medicine. The Board met with interested parties on no less than three separate occasions and after allowing all interested parties to provide input, a draft was completed.

The proposed rulemaking was published at 52 Pa.B. 1980 (April 2, 2022) for 30 days of public comment, and two interested parties provided comment: one from an anonymous Pennsylvania resident; and one from Amy B. Kaunas, Executive Director, Humane Society of Harrisburg, on behalf of the Board of Directors for the Federated Humane Societies of Pennsylvania (FHSP). The Consumer Protection and Professional Licensure Committee of the Senate (SCP/PLC) did not submit comments and the Professional Licensure Committee of the House of Representatives (HPLC) submitted its comment on May 20, 2022. The Independent Regulatory Review Commission (IRRC) submitted comments on June 1, 2022, in part, reiterating and summarizing all comments received by the Board. The following represents a summary of the comments received, the Board’s response, and a description of the amendments made to this final-form rulemaking.

#### *Summary of Comments and the Board’s Response*

An anonymous Pennsylvania resident commented that, “a veterinarian should be at least associated with any organization performing euthanasia tasks from just ensuring proper methods are used to being available on call for potential complications that could arise.” Section 304(a)(1) of ADMAL allows animal protection organizations to apply for a certificate of registration from the Board which, if issued, will allow that animal protection organization to purchase, possess and administer drugs for euthanasia to small domestic animals. Section 304(a)(2) provides that these animal protection organizations may not permit a person to administer drugs approved for euthanasia unless that person holds a current euthanasia technician license or is a person licensed as a veterinarian under the act. Accordingly, ADMAL was clearly designed to allow individuals who are not licensed veterinarians—namely, licensed euthanasia technicians—to administer drugs approved for euthanasia. Moreover, ADMAL notably does not require registered animal protection organizations to associate with a veterinarian for any reason. Therefore, ADMAL was clearly designed to allow licensed euthanasia technicians to administer drugs for euthanasia within the confines of registered animal protection organizations, and to do so without the assistance of a licensed veterinarian. To require that the registered animal protection organizations be “associated” with a licensed veterinarian would be to impose a requirement contrary to the spirit of ADMAL.

IRRC notes that, in § 31.102 (relating to definitions), the Board defines “supervisor of animal care services” as an “individual who is *generally* onsite at the shelter facility,” (Emphasis added.) and notes that “generally” is nonregulatory language that does not set a clear standard of compliance for an animal protection organization. IRRC suggests the Board clarify this definition to set a clear, enforceable standard. In response, the Board amends the definition of “supervisor of animal care services,” which now reads as follows: “The individual who is responsible to the animal protection organization for animal care services including euthanasia and supervision of euthanasia technicians.” The Board initially included the phrase

“generally onsite at the shelter facility” because the Board wished to communicate that the supervisor of animal care services is expected to regularly be onsite to supervise but need not be onsite at all times when euthanasia is performed. In response to IRRC’s comment, the Board considered deleting the word “generally,” but the remaining language would require that the supervisor of animal care services be onsite at all times, which was never the Board’s intention. Accordingly, by deleting the phrase “generally onsite at the shelter facility of a certificate holder. . .” the definition now clarifies that the supervisor of animal care services is “responsible to the animal protection organization for animal care services including euthanasia and supervision of euthanasia technicians.” The supervisor of animal care services and the shelter facility may determine, based on their organization’s needs, how often the supervisor of animal care services must be onsite to properly supervise euthanasia technicians.

IRRC questions the Board’s decision, in § 31.104 (relating to schedule of fees), to require that euthanasia technicians pay a fee for an application for approval of employment change, saying, “[w]e ask the Board to explain why the approval of employment change is needed, why the fee is reasonable and the expected economic impact on the regulated community.” After reviewing this fee, the Board has determined that the fee is unnecessary. This final-form rulemaking already requires that certificate holders provide the Board with written notice of changes to the list of personnel authorized to access drugs for euthanasia under § 31.111(c) (relating to storage and security of drugs for euthanasia, certificates of registration and drug order forms). Accordingly, requiring that euthanasia technicians pay a fee for an application for approval of employment change would be duplicative, unnecessary and burdensome. In response, the Board deletes this fee, and deletes language from § 31.124(a) (relating to reports to be filed with the Board) requiring a euthanasia technician to submit an application for approval of employment change.

IRRC questions the Board’s decision, in §§ 31.106(a) and 31.108(b)(1) (relating to qualifications for a certificate of registration; duty to update certification information; and duties of certificate holders), to require that certificate holders demonstrate that the supervisor of animal care services has completed the didactic portion of the euthanasia technician certification course. IRRC has two issues: (1) the Board does not explain in the Preamble why it is requiring unlicensed employees to complete this component of the euthanasia technician certification course; and (2) the regulation does not directly require the supervisor of animal care services to take this portion of the certification course. IRRC asks the Board to explain the need for this provision. IRRC also asks the Board to consider clarifying the final-form regulation to directly require the supervisor of animal care services to complete this portion of the certification course. In response, the Board notes it does not license or certify the supervisor of animal care services. Therefore, to require the supervisor of animal care services to complete the didactic portion of the euthanasia certification course would be to impose a requirement on an unlicensed individual. Moreover, section 304(a)(1) of ADMAL, provides that “[a]n animal protection organization may apply to the board for the sole purpose of being authorized to purchase, possess and administer drugs approved for euthanasia under section 302 in accordance with regulations promulgated under [ADMAL (3 P.S. § 328.302) and the act.]” (Emphasis added.) and section 5 of the act

empowers the Board to adopt reasonable rules and regulations governing the practice of veterinary medicine as are necessary to enable it to carry out and make effective the purpose and intent of this statutory law. Additionally, section 3(10) of the act (63 P.S. § 485.3(10)) provides that the practice of veterinary medicine includes “the prescription or administration of any drug,” which includes drugs for euthanasia and section 2 of the act (63 P.S. § 485.2) provides that the act is designed to protect the public from being misled by incompetent, unscrupulous and unauthorized persons and from unprofessional or illegal practices by persons licensed to practice veterinary medicine. The Board issues certificates of registration to animal protection organizations, and the Board directly imposes requirements on certificate holders. Therefore, to protect the public from being misled by incompetent persons and from unprofessional or illegal practices by persons, the Board requires that the certificate holder demonstrate that the supervisor of animal care services has completed the didactic portion of a Board-approved euthanasia technician certification course. Moreover, the intent of ADMAL is to allow certificate holders to have animals euthanized without having to rely on the services of a veterinarian. The supervisor of animal care services is responsible to the certificate holder for animal care services including euthanasia and supervision of euthanasia technicians. To properly supervise euthanasia technicians, the supervisor of animal care services must be intimately familiar with (that is, trained in) the administration of drugs for euthanasia. For a time, the Board contemplated requiring that the supervisor of animal care services maintain an active euthanasia technician license. However, the Board ultimately decided that only the individuals performing euthanasia, and not those supervising the individual performing euthanasia, must maintain a license. To ensure that the supervisor of animal services has acquired some level of competence in the administration of drugs for euthanasia, the Board requires that the animal control organization demonstrate that the supervisor of animal services is acquainted with the administration of drugs for euthanasia by demonstrating that the supervisor of animal services has completed the didactic portion of the euthanasia technician certification course. Therefore, the Board did not amend this provision.

IRRC and the FHSP question the Board’s decision, in § 31.106(d), to require that certificate holders be inspected by agents of the Board, rather than agents of the PDA. Section 304(d) of ADMAL provides for the Board to “enter into a memorandum of understanding with the [PDA] and designate the [PDA] to act as its authorized agent for the limited purposes of inspecting and monitoring animal protection organizations.” IRRC and the FHSP suggest that inspections be completed by the PDA during its regular inspection process, noting that there “is a simple check list” under § 31.109 (relating to area used for small domestic animal euthanasia; required equipment and supplies). In response, on September 8, 2022, the Board contacted the PDA and inquired whether it would be interested in this arrangement. On December 6, 2022, the PDA informed the Board that it is not in a position, at this time, to be able to enter into a Memorandum of Understanding (MOU) with the Department of State to assume the additional duties requested in the Board’s September 8, 2022, correspondence. The Board will endeavor to coordinate inspections with those conducted by PDA during its regular inspection process.

IRRC questions the Board’s decision, in § 31.106(f), to deem an application withdrawn if it remains dormant for

more than 12 months and asks that the Board explain how it determined that 12 months is a reasonable time for an application to remain active, what factors it considered in determining that an application will become dormant after that time, and the fiscal impact upon applicants who will be required to pay a second application fee. In response, the Board suggests it would be impractical to allow applications to remain active indefinitely, however the Board notes that not all boards have language in their act or regulations specifically stating how long an application will remain active. Accordingly, it has become the policy of the Bureau of Professional and Occupational Affairs (BPOA) that an application be deemed withdrawn if it is not completed within 12 months. Short of deeming an application withdrawn, most BPOA boards will contact applicants to request that certain key documents like the criminal history record check, or letters of good standing be updated after 6 months because they can become "stale" (that is, new convictions, change of employment, and the like), but something must be done if the applicant fails to complete the application, or fails to update required information, which is why incomplete applications are deemed withdrawn after 12 months. An application is only deemed withdrawn if the applicant has not completed the application within 12 months of submitting the application and paying the application fee. Accordingly, the Board amends § 31.106(f) and § 31.122(e) (relating to qualifications for licensure; duty to update licensure information) to clarify that an application submitted to the Board will be active for a period of 12 months from the date the application fee is paid by the applicant, and if an application is not completed within 12 months, it will be deemed withdrawn. The Board also amends § 31.122 by adding subsection (f) to: (1) mirror § 31.106(g); and (2) clarify that both applicants for certificates of registration and applicants for licensure must update the application if any information on the application changes prior to issuance of the certificate or license, as applicable.

Applicants are not penalized for Bureau processing time, meaning applications must be completed, not reviewed and approved/denied, within 12 months. Moreover, applications are very rarely deemed withdrawn due to inactivity, with the Bureau-wide estimate being approximately 2 per month, or 24 per year, whereas the Bureau processes tens of thousands of applications per year. BPOA does not track the number of applicants who submit a new application and pay a second application fee after an application is deemed "withdrawn" due to inactivity. However, of the approximately 24 applications deemed withdrawn annually, even if all these individuals submitted a new application, that number would be diminutive compared to the tens of thousands of applications processed by the Bureau annually. Therefore, because the fiscal impact of the Bureau's 12-month policy is practically \$0, the Board expects that adopting this policy by regulation will have no fiscal impact on its applicants. Moreover, the Board would not be the first to promulgate such a regulation; the regulations of the State Board of Massage Therapy state an applicant will be notified within 8 weeks of the receipt of an incomplete application, and the applicant "shall supply the missing documentation within 6 months from the date the application is executed by the applicant. After that time, if the documentation has not been submitted, the application will be denied and the application fee forfeited. An applicant who wishes to reapply shall submit a new application and application fee." See 49 Pa. Code § 20.21(f) and (g).

Section 304(a)(1) of ADMAL allows animal protection organizations to apply to the Board for the sole purpose of being authorized to purchase, possess and administer drugs approved for euthanasia. The Board clarifies, in § 31.107 (relating to authority of certificate holders to purchase, possess and administer controlled substances; limitations on authority), that should a certificate be issued, the certificate holder may not purchase, possess or administer any controlled substance or any other legend drug which is not a drug for euthanasia. IRRC questions language in the Preamble to the proposed rulemaking which explains that this does not prohibit an animal protection organization that employs a staff veterinarian from possessing drugs used for other purposes acquired under the authority of the staff veterinarian's license and United States Drug Enforcement Administration (DEA) registration and asks that the Board clarify this paragraph to include the allowance for an animal protection organization who employs a veterinarian. The Board responded by adding the following language to § 31.107(b): "This provision does not prohibit a certificate holder with a staff veterinarian to possess drugs used for other purposes acquired under the authority of the staff veterinarian's license and DEA registration."

IRRC asks why, in § 31.108 (relating to duties of certificate holders), the Board requires that a certificate holder assess competency of its euthanasia technicians and asks that the Board explain why it is reasonable and necessary for a certificate holder to make this determination. Furthermore, IRRC asks that the Board consider revising this subsection to eliminate the requirement placed upon a certificate holder. In response, the Board looks to § 31.21 (relating to Rules of Professional Conduct for Veterinarians), and notes that principle (1)(e) requires that veterinarians safeguard the public and the veterinary profession against veterinarians deficient in professional competence, professional conduct or ethical conduct as described in this chapter. Additionally, § 31.38 (relating to code of ethics for certified veterinary technicians) requires that certified veterinary technicians report to the Board any veterinary technician or veterinarian deficient in professional competence, professional conduct or ethical conduct. Accordingly, because the Board already has similar reporting requirements for veterinarians and certified veterinary technicians, and because the certificate holder and its supervisor of animal care services are responsible for animal care services including euthanasia and supervision of euthanasia technicians, the Board submits it is in the best interests of the small domestic animals being euthanized to require that incompetent euthanasia technicians be reported to the Board. However, IRRC's comment allowed the Board to reassess this requirement, and a less burdensome method is available. Accordingly, the Board will no longer require that a certificate holder ensure that a euthanasia technician providing euthanasia at the shelter is clinically competent. Instead, in § 31.108(a)(1), certificate holders will be required to inform the Board if the certificate holder "knows or has reason to believe" that a euthanasia technician providing euthanasia at the shelter does not possess, or no longer possesses, the knowledge and ability to provide humane handling and euthanasia.

IRRC, the HPLC and the FHSP question the Board's decision, in § 31.108(a)(6), to require that an animal protection organization provide the Board with a hard copy of the controlled substance log for drugs for euthanasia every 60 days, along with a summary report containing the notifications in subsection (b). The HPLC recommends that the Board consider allowing certificate

holders to maintain digital records, and the FHSP opined that the requirement was burdensome and suggests that the Board adopt a retention requirement that mirrors the DEA requirements. The Board responds by deleting the requirement that a hard copy be maintained and provided to the Board every 60 days, and instead, in § 31.108(a)(6), will require that the certificate holder “[m]aintain a controlled substance log in the manner and format required by the DEA and, upon request, immediately make the controlled substance log available for inspection by agents of the Board, PDA or DEA.” Section 1304.06(g) of 21 CFR (relating to records and reports for electronic prescriptions) provides that, “[u]nless otherwise specified, records and reports must be retained for two years.” In an effort to clarify the Board’s record retention provision relating to drugs for euthanasia, the Board amends § 31.108(a)(6) by adding the following statement: “Unless a longer retention period is specified by DEA regulation at 21 CFR Part 1304 (relating to records and reports of registrants), records and reports must be retained for 2 years.”

IRRC questions the Board’s decision, in § 31.108(b)(5), to require that, in the 60-day report, certificate holders report any change in the physical location or significant changes made to the shelter, and, if applicable, demonstration that a new DEA Certificate of Registration has been obtained for the new address. IRRC asks that the Board revise the regulation to add procedures for when certificate holders change physical locations or make significant changes to areas used for euthanasia. The Board responded by amending § 31.108(b) to require that, instead of including the information listed in § 31.108(b) in the no-longer-required 60-day report, certificate holders must provide the Board with written notice of staffing changes, staff discipline and changes to the physical location or areas used for euthanasia within 30 days. Additionally, as noted by IRRC, subsection (a)(4) requires that certificate holders obtain separate certificates of registration from the Board and DEA for each address where euthanasia drugs are stored or administered. Obtaining a new or separate certificate of registration will serve as notice of change to the physical location.

IRRC and the FHSP question the Board’s decision, in § 31.109(a)(4), to require that the area used for euthanasia have “adequate ventilation to prevent the accumulation of odors, including at least one exhaust fan.” FHSP asked the Board to justify the added expense of the exhaust fan by explaining what odors the performance of euthanasia produces. In light of the concern expressed with regard to the added expense of installing an exhaust fan, the Board responded by amending the requirement that an exhaust fan be used. Instead, the Board now requires only that the area used for animal euthanasia have “adequate ventilation to prevent the accumulation of odors.”

In § 31.112(j) (relating to maintenance of records and inventories of drugs for euthanasia), the Board requires that, after a certificate holder disposes of drugs for euthanasia in accordance with DEA regulations, the certificate holder must send a copy of the disposal documentation to the Board. IRRC suggests that the Board revise this subsection to include implementation procedures for sending documentation, specifically a timeframe. The Board responded by amending the subsection to read as follows: “If a certificate holder surrenders its Board or DEA Certificate of Registration, the certificate holder shall *promptly* dispose of drugs for euthanasia in accordance with DEA regulations at 21 CFR Part 1317 (relating to disposal) and shall *immediately, upon comple-*

*tion of disposal*, send a copy of the disposal documentation to the Board.” This provision was modeled after the Pharmacy Board’s regulations in § 27.11(f) (relating to pharmacy permit and pharmacist manager), which state (in part), “[a] pharmacy which closes or otherwise ceases operation shall immediately return to the Board its current permit and *shall immediately inform the Board of the disposition of the prescription files and nonproprietary drugs.*” (Emphasis added.)

IRRC expresses two specific concerns with § 31.114(d) (relating to grounds for refusal, suspension, revocation or imposition of other disciplinary sanction), which will allow the Board to discipline a certificate holder for failing to admit agents of the Board to conduct investigations or inspections of the certificate holder’s compliance with applicable laws or for failing to admit agents of the PDA to conduct investigations or inspections that the PDA is authorized to conduct. First, IRRC identifies that § 31.108(a)(7) only requires that certificate holders cooperate with “the Board and its agents,” with no specific requirement that certificate holders cooperate with agents of the PDA. Second, IRRC suggests that this requirement may only be necessary should the Board enter into an MOU (see preceding discussion of § 31.106(d)). The Board notes that the Dog Law (3 P.S. §§ 459-101—459-1206), enforced by the PDA, requires that all licensed kennels be inspected by State dog wardens and PDA employees at least twice per calendar year. See specifically section 218(a) of the Dog Law (3 P.S. § 459-218(a)). Furthermore, section 218 states, “It shall be unlawful for any person to refuse admittance to such State dog wardens and employees of the [PDA] for the purpose of making inspections and enforcing the provisions of this act.” *Id.* Should a kennel refuse entry to “an agent of the Commonwealth acting to enforce [the Dog Law],” section 220(a) of the Dog Law (3 P.S. § 459-220(a)) states that “refusal of entry” shall constitute a violation of the Dog Law. In section 102 of the Dog Law (3 P.S. § 459-102) “kennel” is defined as “[a]ny establishment in or through which at least 26 dogs are kept or transferred in a calendar year, or a boarding kennel as defined in this act.” While “kept or transferred” is not specifically defined, the Dog Law defines “humane society or association for the prevention of cruelty to animals” as “[a] nonprofit society or association duly incorporated under 15 Pa.C.S. Chapter 53 Subchapter A (relating to incorporation generally) for the purpose of the prevention of cruelty to animals, *which has a licensed physical kennel facility* that can house a minimum of ten dogs, and which is not located on a residential property.” (Emphasis added.) Accordingly, any animal protection organization licensed by the Board to purchase, possess and administer drugs approved for euthanasia would also be a kennel as defined by the Dog Law.

Section 304 of ADMAL empowers the Board to issue certificates of registration to animal protection organizations. Section 102 of ADMAL (3 P.S. § 328.102) states an “animal protection organization” must be either: 1) a nonprofit society or association incorporated for the purpose of the prevention of cruelty to animals; or 2) a municipality which operates an animal shelter. Surely, every certificate holder will keep or transfer at least 26 dogs in a calendar year. Therefore, the Board expects that every animal protection organization will also be a kennel as defined by the Dog Law. Thus, being that each certificate holder will be subject to the inspection provisions of the Dog Law, this final-form rulemaking requires that certificate holders cooperate with “the Board and its agents,” with no specific requirement that certificate holders cooperate with agents of the PDA, because the

Dog Law already requires that kennels (and therefore certificate holders) cooperate with agents of the PDA. Moreover, the duties of certificate holders listed in § 31.108 is not meant to be an exhaustive list, which is why § 31.103 (relating to applicability of other laws and rules) discusses the applicability of other laws and rules, specifically listing, “The Dog Law (3 P.S. §§ 459-101—459-1206).” Therefore, the requirement that certificate holders admit agents of the Board and PDA is necessary regardless of whether the Board enters into an MOU with the PDA.

IRRC identifies that, in § 31.115(c) (relating to disciplinary sanctions), the proposed rulemaking states, the Board “*may* summarily revoke the certificate of a certificate holder if the PDA revokes a license associated with the shelter or certificate holder,” whereas section 304(a)(3) of ADMAL states that if the PDA revokes a license associated with the shelter or certificate holder, “the authorization to purchase, possess and administer drugs approved for euthanasia under subsection (c) *shall* be immediately revoked. . .” IRRC suggests § 31.115(c) does not meet the statutory obligation requiring the revocation of a certificate, and asks the Board to revise and clarify this subsection to delete discretionary language and align it with the requirements in section 304(a)(3) of ADMAL. In response, the Board amends § 31.115(c), deleting the discretionary language so that it now states, “The Board *will* summarily revoke the certificate of a certificate holder if the PDA revokes a license associated with the shelter or certificate holder.” (Emphasis added.)

IRRC questions the Board’s decision, in § 31.122(a)(2), to allow an applicant for licensure as a euthanasia technician, who has not received a high school diploma or its equivalent, to submit at least three letters of recommendation attesting to the applicant’s ability to perform the functions of a euthanasia technician, including at least one recommendation from a veterinarian licensed in this Commonwealth or another state. IRRC expresses three concerns: 1) How will the Board evaluate the letters and recommendations to determine that the applicant has the necessary skills to perform the duties of a euthanasia technician; 2) Why is it reasonable to lower the educational requirements for this license given the skills needed to perform this work; and 3) How does this provision protect the public health, safety and welfare given the use of controlled substances? In response, the Board determines: 1) It is reasonable to require that an applicant for licensure as a euthanasia technician provide evidence the applicant received a high school diploma or its equivalent; and 2) The provision allowing for letters of recommendation in lieu of a high school education does not sufficiently protect the public health, safety and welfare given the use of controlled substances. Accordingly, the Board amends § 31.122(a)(2) to require that applicants for licensure as a euthanasia technician submit satisfactory evidence the applicant received a high school diploma or its equivalent, and in doing so, deletes all language regarding the submission of letters of recommendation in lieu of evidence of having obtained a high school education.

IRRC identifies that, in § 31.123(c)(2) (relating to educational programs and examinations for euthanasia technicians), the proposed rulemaking listed the curriculum that must be included in a euthanasia technician certification course, however § 31.123(c)(2) does not include “knowledge of the Commonwealth’s statutes and regulations relating to euthanasia” as required by section 304(c)(1)(i) of ADMAL. IRRC asks that the Board revise this paragraph to include the statutorily required eligibil-

ity criteria. However, while ADMAL clearly requires an applicant for licensure as a euthanasia technician demonstrate “knowledge of the Commonwealth’s statutes and regulations relating to euthanasia,” the Board suggests this requirement need not be included in the euthanasia technician certification course. In fact, should an applicant for licensure complete a euthanasia technician certification course in another jurisdiction, there is very little chance the out-of-State course would have provided the applicant with knowledge of the Commonwealth’s statutes and regulations relating to euthanasia. In response, the Board amends § 31.122(a) to include the following language, in paragraph (5), requiring that an applicant: “Has adequate knowledge of the Commonwealth’s statutes and regulations relating to euthanasia and demonstrates knowledge in a manner and format approved by the Board.” The “manner and format approved by the Board” is a “worksheet” that must be completed by applicants for licensure as euthanasia technicians which will require that applicants demonstrate knowledge of the Commonwealth’s statutes and regulations relating to euthanasia by requiring them to obtain a copy of the act, the Board’s regulations and ADMAL, and cite to the appropriate section and paragraph in the act, the Board’s regulations and ADMAL, where specific information (as identified on the worksheet) may be located (for example approved drugs for euthanasia; duties of euthanasia technicians; and the like). A copy of the Board’s worksheet has been added to “Attachment A” of the Regulatory Analysis Form (RAF).

IRRC suggests that the Board update the RAF to include: 1) The cost of certification courses for euthanasia technicians and supervisors of animal care services in RAF Questions # 19 and # 23; 2) An estimate of costs for local governments in RAF Questions # 20 and # 23 or explain why it is not possible to do so; and 3) An estimate of Board costs in implementing the proposed rulemaking in RAF Questions # 21 and # 23. In response, the Board updated the RAF, to include these cost estimates.

IRRC identifies that the defined term “small domestic animals” and the undefined term “animal” are used interchangeably throughout Subchapter B and asks that the Board review and revise the regulations to ensure the consistent use of the defined term. In response, and because the terms were used interchangeably for no distinguishable reason, the Board amends every occurrence of the term “animal” to instead read as “small domestic animal,” where applicable.

IRRC also identifies that §§ 31.127(b)(6) and 31.128(e) (relating to duties of euthanasia technicians; and standards for euthanasia of small domestic animals) discuss confirmation of death but seem to establish different tests for confirmation of death. In response, and in the interest of uniformity, the Board deletes language from § 31.128(e), and copies language from § 31.127(b)(6), so that both sections now provide that death shall be verified or confirmed “by examination and establishment of the absence of heartbeat and respiration and lack of corneal and pupillary reflexes before disposal of the body.”

The Board identified that §§ 31.113 and 31.126 (relating to renewal of certificate of registration; and renewal of license, inactive status and reactivation of license) should be amended to reflect current BPOA policy with regard to initial certificates and licenses issued less than 90 days prior to the expiration date set by regulation. Generally, within the context of each licensing board, all certificates and licenses expire on the same date, as set by regulation. However, if an initial certificate or license

is issued less than 90 days prior to the expiration date set by regulation, the Pennsylvania Licensing System automatically “pushes” the certificate or license into the next renewal cycle, thereby issuing a certificate or license that is valid for slightly longer than 2 years. The proposed rulemaking was designed to “push” certificates and licenses issued near the expiration date set by regulation into the next renewal cycle, but the proposed rulemaking was designed to do so for all certificates and licenses issued within 6 months of the expiration date set by regulation, whereas BPOA policy is 90 days (3 months). The Board finds that 90 days is a more acceptable standard. Accordingly, the Board amends §§ 31.113 and 31.126 to require that certificates licenses issued at any time after September 1 of an even-numbered year will not be subject to renewal until the next even-numbered year, with September 1 being 90 days prior to the expiration date set by regulation (certificates of registration and euthanasia technician licenses shall be renewed biennially before December 1 of each even-numbered year (see §§ 31.113 and 31.126). In this way, an animal protection organization or euthanasia technician would not be required to almost immediately renew their certificate of registration or license within 90 days of initial issuance. Moreover, the Board transposed a clarifying statement regarding certificates and licenses issued after September 1 of even-numbered years. Accordingly, §§ 31.113 and 31.126 now provide that “[a] renewed license is valid for a period of 2 years. An initial [certificate or license] issued at any time after September 1 of an even-numbered year will not be subject to renewal until the next even-numbered year.”

Finally, in the interest of uniformity the Board amends numerous occurrences of the phrase “euthanasia drugs” to instead use the defined term “drugs for euthanasia.”

*Fiscal Impact*

This final-form rulemaking should not have any fiscal impact on the general public. Animal protection organizations that seek a certificate of registration and individuals who seek a license as a euthanasia technician will be required to pay fees set forth in this final-form rulemaking, as well as the fees associated with certification courses for euthanasia technicians and supervisors of animal care services. There may be costs associated with compliance with the facility and equipment requirements for existing facilities that do not currently comply. An estimate of the cost of compliance with this final-form rulemaking is set forth in the RAF required by IRRC, which is available on request.

*Paperwork Requirements*

This final-form rulemaking does not create additional paperwork for the Board, the Board’s existing licensees or the general public. Applicants for registration as an animal protection organization and for licensure as a euthanasia technician will be required to file an online application and submit supporting documentation as required. Certificate holders and licensed euthanasia technicians will be required to complete required paperwork relating to the purchase, dispensing and disposal of drugs used for euthanasia, but these requirements are set by Federal regulations and are included in this final-form rulemaking for ease of reference. Certificate holders and licensed euthanasia technicians will be required to complete biennial renewal applications and to submit updated information to the Board as set forth in this final-form rulemaking.

*Regulatory Review*

Under Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 10, 2022, the Board submitted a copy of the notice of proposed rulemaking, published at 52 Pa.B. 1980 and a copy of a RAF to IRRC and to the SCP/PLC and the HPLC for review and comment. A copy of this material is available to the public upon request.

Under section 5(c) of the Regulatory Review Act (71 P.S. § 745.5(c)), the Board shall submit to IRRC, the SCP/PLC and the HPLC copies of comments received as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC, the SCP/PLC, the HPLC and the public.

Under section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)), on April 29, 2024, the Board delivered this final-form rulemaking to IRRC, the SCP/PLC and the HPLC. Under section 5.1(j.2) of the Regulatory Review Act, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC on June 19, 2024. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 20, 2024, and approved the final-form rulemaking.

*Additional Information*

Additional information may be obtained by writing to Michelle Roberts, Board Administrator, State Board of Veterinary Medicine, P.O. Box 2649, Harrisburg, PA 17105-2649, ST-Veterinary@pa.gov.

*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 and 1202), referred to as the Commonwealth Documents Law and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law, and all comments received were considered in drafting this final-form rulemaking.

(3) The amendments to this final-form rulemaking do not enlarge the original purpose of the proposed rulemaking published at 52 Pa.B. 1980.

(4) This final-form rulemaking is necessary and appropriate for the administration of ADMAL.

*Order*

The Board, therefore, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 31, are amended by adding the heading, Subchapter A, to existing §§ 31.1—31.41, and Subchapter B, §§ 31.101—31.115 and 31.121—31.130, to read as set forth in Annex A.

(b) The Board shall submit this final-form rulemaking to the Office of Attorney General and the Office of General Counsel for approval as required by law.

(c) The Board shall submit this final-form rulemaking to IRRC, the SCP/PLC and the HPLC as required by law.

(d) The Board shall certify this final-form rulemaking and deposit it with the Legislative Reference Bureau as required by law.

(e) This final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

THOMAS N. GARG, VMD,  
Chairperson

(Editor's Note: See 54 Pa.B. 3855 (July 6, 2024) for IRRC's approval order.)

**Fiscal Note:** Fiscal Note 16A-5726 remains valid for the final adoption of the subject regulations.

### 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

##### Subchap.

##### A. VETERINARIANS, CERTIFIED VETERINARY TECHNICIANS AND VETERINARY ASSISTANTS

##### B. ANIMAL PROTECTION ORGANIZATIONS AND EUTHANASIA TECHNICIANS

#### Subchapter B. ANIMAL PROTECTION ORGANIZATIONS AND EUTHANASIA TECHNICIANS

#### GENERAL PROVISIONS

Sec.	
31.101.	Applicability of subchapter.
31.102.	Definitions.
31.103.	Applicability of other laws and rules.
31.104.	Schedule of fees.

#### CERTIFICATE OF REGISTRATION FOR ANIMAL PROTECTION ORGANIZATIONS

31.105.	Application for certificate of registration.
31.106.	Qualifications for a certificate of registration; duty to update certification information.
31.107.	Authority of certificate holders to purchase, possess and administer controlled substances; limitations on authority.
31.108.	Duties of certificate holders.
31.109.	Area used for small domestic animal euthanasia; required equipment and supplies.
31.110.	Approved drugs for euthanasia.
31.111.	Storage and security of drugs for euthanasia, certificates of registration and drug order forms.
31.112.	Maintenance of records and inventories of drugs for euthanasia.
31.113.	Renewal of certificate of registration.
31.114.	Grounds for refusal, suspension, revocation or imposition of other disciplinary sanction.
31.115.	Disciplinary sanctions.

#### EUTHANASIA TECHNICIANS

31.121.	Application for licensure.
31.122.	Qualifications for licensure; duty to update licensure information.
31.123.	Educational programs and examinations for euthanasia technicians.
31.124.	Reports to be filed with the Board.
31.125.	Employment required; services to be provided at shelter only.
31.126.	Renewal of license, inactive status and reactivation of license.
31.127.	Duties of euthanasia technicians.
31.128.	Standards for euthanasia of small domestic animals.
31.129.	Standards for administration of drugs for euthanasia.
31.130.	Grounds for refusal, suspension, revocation or imposition of other disciplinary sanction.

#### GENERAL PROVISIONS

##### § 31.101. Applicability of subchapter.

Subchapter B shall apply to all animal protection organizations operating in this Commonwealth and all individuals, except those exempted by statute, that provide, either personally or through contract or other arrangement, euthanasia for small domestic animals,

whether or not the animal protection organization orders drugs for euthanasia under the certificate granted by the Board.

##### § 31.102. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

**ADMAL**—The Animal Destruction Method Authorization Law (3 P.S. §§ 328.101—328.1102).

**Animal protection organization**—A nonprofit society or association incorporated under 15 Pa.C.S. Chapter 53, Subchapter A (relating to incorporation generally) for the purpose of the prevention of cruelty to animals or a municipality which operates an animal shelter.

**Certificate holder**—An animal protection organization that holds a current certificate of registration issued by the Board.

**Chemical restraint**—The use, through administration by routes recommended by the manufacturer, of drugs for euthanasia to sedate or tranquilize a small domestic animal prior to the provision of euthanasia.

**DEA**—The United States Drug Enforcement Administration.

**Drug for euthanasia**—A commercially available injectable drug or combination of drugs approved by the Federal Food and Drug Administration and the Board for the purpose of euthanasia of small domestic animals and chemical restraint approved by the Board for use in conjunction with the euthanasia of small domestic animals.

**Euthanasia technician**—An individual who holds a current euthanasia technician license issued by the Board.

**OSHA**—The Occupational Safety and Health Administration within the United States Department of Labor.

**PDA**—The Pennsylvania Department of Agriculture.

**Restraint**—A safe and humane method of restricting a small domestic animal's movement, including holding the animal or placing the animal in an appropriately-sized enclosure.

**Shelter**—The physical facility at which a certificate holder provides humane euthanasia in accordance with ADMAL.

**Small domestic animals**—Cats and dogs, and any of the following animals whose general intended purpose is to be kept and cared for as household pets: rabbits, mice, rats, hamsters, guinea pigs, ferrets, birds, reptiles and amphibians.

**Supervisor of animal care services**—The individual who is responsible to the animal protection organization for animal care services including euthanasia and supervision of euthanasia technicians.

##### § 31.103. Applicability of other laws and rules.

(a) Individuals and certificate holders are subject to the act, ADMAL, this chapter and all other applicable law. For purposes of this section, applicable law includes all of the following:

- (1) The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144).
- (2) The Dog Law (3 P.S. §§ 459-101—459-1206).
- (3) Regulations of the PDA, the DEA and OSHA.

(4) Any other or subsequent statute, rule or regulation of any government entity, whether Federal, State or local, relevant to the purchase, possession and administration of drugs for euthanasia of small domestic animals, the handling of small domestic animals or the disposal of small domestic animal remains.

(b) Except as set forth in ADMAL, activities and proceedings before the Board are subject to 2 Pa.C.S. Chapter 5, Subchapter A and Chapter 7, Subchapter A (relating to Administrative Agency Law) and 1 Pa. Code §§ 31.1—35.251 (relating to the General Rules of Administrative Practice and Procedure).

**§ 31.104. Schedule of fees.**

The Board will charge the following fees for the administration of this subchapter:

*Animal protection organizations:*

Application for certificate of registration (includes initial inspection).....	\$244
Re-inspection fee.....	\$216
Biennial renewal of certificate of registration.....	\$50
Late renewal fee—per month or part of month.....	\$5

*Euthanasia technicians:*

Application for initial license.....	\$87
Verification of licensure.....	\$15
Biennial renewal.....	\$25
Late renewal fee—per month or part of month.....	\$5

**CERTIFICATE OF REGISTRATION FOR ANIMAL PROTECTION ORGANIZATIONS**

**§ 31.105. Application for certificate of registration.**

(a) An applicant for a certificate of registration from the Board shall file an application in accordance with this chapter and in the manner and format prescribed by the Board.

(b) An applicant for a certificate of registration with the Board shall pay the fee set forth in § 31.104 (relating to schedule of fees) upon submission of the application.

(c) An applicant for a certificate of registration with the Board shall demonstrate that it meets the requirements of ADMAL and this chapter.

**§ 31.106. Qualifications for a certificate of registration; duty to update certification information.**

(a) The Board may issue a certificate of registration to an animal protection organization that meets all of the following requirements:

(1) Demonstrates that it is a nonprofit society or association incorporated in this Commonwealth for the purpose of the prevention of cruelty to animals or is a municipality which operates an animal shelter.

(2) Demonstrates that the supervisor of animal care services has completed the didactic portion of a Board-approved euthanasia technician certification course.

(3) Demonstrates, by submission of a criminal history record check, that the supervisor of animal care services has not been convicted of a drug trafficking offense as defined in 63 Pa.C.S. § 3113(i) (relating to consideration of criminal convictions), a crime that directly relates to the profession as defined in 63 Pa.C.S. § 3102 (relating to definitions) or a crime of violence as defined in 42 Pa.C.S. § 9714 (relating to sentences for second and subsequent offenses), unless the supervisor of animal care services

demonstrates, at a hearing before the Board or its designee, the required mitigating or rehabilitative criteria as enumerated in the act and 63 Pa.C.S. § 3113(b)(1), as applicable.

(4) Demonstrates, through a precertification inspection by agents of the Board, that the animal protection organization has adequate shelter facilities to safely and humanely purchase, possess and administer drugs for euthanasia.

(5) Submits the names of all euthanasia technicians employed by or under contract with the animal protection organization to administer drugs for euthanasia to small domestic animals.

(6) Submits the names of any licensed veterinarian associated with the animal protection organization, along with a description of the association.

(b) An application will not be considered until the application is complete and is accompanied by the required fee set forth in § 31.104 (relating to schedule of fees).

(c) An application for certificate of registration will be thoroughly investigated.

(d) An animal protection organization applying for a certificate of registration will be inspected by agents of the Board to determine if the equipment and facilities of the organization meet the requirements of this subchapter. An animal protection organization that does not meet the requirements of this subchapter may not commence or continue operations until the organization has been inspected again and found to be compliant. An animal protection organization shall pay the re-inspection fee set forth in § 31.104 prior to re-inspection.

(e) The Board reserves the authority to require an applicant to provide additional information or evidence to support the application for certificate of registration. The Board may require an applicant to appear before the Board to provide the Board this additional information or evidence.

(f) An application submitted to the Board will be active for a period of 12 months from the date the application fee is paid by the applicant. If an application is not completed within 12 months, it will be deemed withdrawn and a new application, including payment of the application fee, will be required should the applicant later seek registration.

(g) An applicant shall update the application if any information on the application changes prior to issuance of the certificate of registration.

**§ 31.107. Authority of certificate holders to purchase, possess and administer controlled substances; limitations on authority.**

(a) A certificate holder that holds a current, unrestricted DEA Certificate of Registration may do all of the following:

(1) Purchase, possess and administer, through its authorized agents, drugs for euthanasia.

(2) Transfer drugs for euthanasia to a currently licensed euthanasia technician or veterinarian who is employed by or under contract with the certificate holder to provide euthanasia to small domestic animals for the purpose of administration to small domestic animals, provided, however, that the drugs for euthanasia may only be used to provide euthanasia at the shelter.



(3) Dispose of drugs for euthanasia in accordance with law.

(b) A certificate holder may not do any of the following:

(1) Purchase, possess or administer any controlled substance or any other legend drug which is not a drug for euthanasia. This provision does not prohibit a certificate holder with a staff veterinarian to possess drugs used for other purposes acquired under the authority of the staff veterinarian's license and DEA registration.

(2) Transfer a drug for euthanasia to anyone other than a currently licensed euthanasia technician or veterinarian employed by or under contract with the animal protection organization to provide euthanasia on the premises of the certificate holder.

(3) Authorize, permit or allow any drug for euthanasia purchased or possessed by the certificate holder under the authority of ADMAL to leave the premises of the shelter.

(4) Authorize, permit or allow the disposal of drugs for euthanasia in any manner other than that required by law.

(5) Authorize, permit or allow any other individual or animal protection organization to use the certificate holder's certificate of registration issued by the Board or DEA Certificate of Registration to purchase, possess, administer or transfer a drug for euthanasia or any other controlled substance or legend drug.

**§ 31.108. Duties of certificate holders.**

(a) A certificate holder shall do all of the following:

(1) Inform the Board if the certificate holder knows or has reason to believe that a euthanasia technician providing euthanasia at the shelter does not possess, or no longer possesses, the knowledge and ability to provide humane handling and euthanasia to small domestic animals in this Commonwealth by the administration of injectable agents by intravenous and intraperitoneal injection.

(2) Provide an area suitable for storage of drugs and equipment for euthanasia, and for the provision of euthanasia, in accordance with § 31.109 (relating to area used for small domestic animal euthanasia; required equipment and supplies).

(3) Register with and receive a certificate of registration from the DEA prior to the purchase, possession or administration of any drugs for euthanasia.

(4) Obtain separate certificates of registration from the Board and DEA for each address where euthanasia drugs are stored or administered.

(5) Submit a copy of the DEA Certificate of Registration to the Board within 5 business days of receiving each initial certificate of registration and within 5 business days of the renewal of each certificate of registration.

(6) Maintain a controlled substance log in the manner and format required by the DEA and immediately make the controlled substance log available for inspection by agents of the Board, PDA or the DEA upon request. Unless a longer retention period is specified by DEA regulation at 21 CFR Part 1304 (relating to records and reports of registrants), records and reports must be retained for 2 years.

(7) Cooperate with the Board and its agents in the inspection of the euthanasia facility, inspection of licenses and registrations, and investigation of complaints filed with the Board.

(b) A certificate holder shall provide written notice of any of the following to the Board within 30 days:

(1) Change of supervisor of animal care services, including proof that the new supervisor of animal care services has completed the didactic portion of a Board-approved euthanasia technician course.

(2) Change or addition of euthanasia technician, including the name and license number of the new or additional euthanasia technician or technicians employed by or under contract with the animal protection organization.

(3) Change to the list of personnel authorized to access drugs for euthanasia under § 31.111(c) (relating to storage and security of drugs for euthanasia, certificates of registration and drug order forms).

(4) A disciplinary action taken against any euthanasia technician, the supervisor of animal care services or the executive director of the certificate holder by a licensing agency of another jurisdiction, or a finding or verdict of guilt, an admission of guilt, a plea of nolo contendere, probation without verdict, a disposition in lieu of trial or an Accelerated Rehabilitative Disposition of any felony or misdemeanor.

(5) Change in the physical location or significant changes to the shelter, and, if applicable, demonstration that a new DEA Certificate of Registration has been obtained for the new address.

**§ 31.109. Area used for small domestic animal euthanasia; required equipment and supplies.**

(a) A certificate holder shall provide an area used for small domestic animal euthanasia at a shelter that meets all of the following requirements:

(1) Is separated from the rest of the shelter and from public view, is not used for any other purpose while a small domestic animal is being euthanized and in which unrelated animals are not present.

(2) Has bright and even lighting. Additional lighting over the location where euthanasia agents are administered by injection is highly recommended.

(3) Has an ambient temperature that is between 60-degrees and 80-degrees Fahrenheit.

(4) Has adequate ventilation to prevent the accumulation of odors.

(5) Has flooring, which is dry and non-slip to prevent accidents, and is easy to clean and disinfect.

(6) Is kept clean and disinfected.

(b) A certificate holder shall provide, at a minimum, the following equipment and supplies for the area used for small domestic animal euthanasia:

(1) A table or work area where a small domestic animal can be handled and restrained while being euthanized. The surface must be easily disinfected and appropriate for the species and size of small domestic animals euthanized by the animal protection organization.

(2) A cabinet, table or workbench where the controlled dangerous substances, needles, catheters, syringes, clippers and other equipment and supplies can be placed while euthanasia is being performed. This surface should be adjacent to, but separate from, the area where the small domestic animals are handled.

(3) A hand-washing sink that can be easily accessed by the animal protection organization's euthanasia technician and animal handler. For purposes of this provision,

the sink must be no more than 30 feet from the area where euthanasia is conducted. Animal protection organizations with alternate physical layouts may request a variance from this provision.

(4) Emergency eye wash equipment in working order that can be easily accessed by the animal protection organization's euthanasia technician and animal handler. For purposes of this provision, the emergency eye wash equipment must be no more than 30 feet from the area where euthanasia is conducted. Animal protection organizations with alternate physical layouts may request a variance from this provision.

(5) Documented procedure for providing clean and sanitary towels.

(6) Equipment and supplies as needed for adequate room sanitation, such as detergents, disinfectants, paper towels, brooms and mops.

(7) Eye or face protection for personnel reconstituting drugs for euthanasia, performing injections or restraining small domestic animals for injection.

(8) Disposable medical exam gloves.

(9) Suitable personal protective equipment, including animal handling gloves.

(10) An assortment of muzzles or appropriate disposable material which can be used for muzzles.

(11) A control stick for dogs.

(12) Capture/restraint nets suitable for the species and size of small domestic animals normally handled by the certificate holder and constructed of materials that can be sanitized.

(13) Towels of terry cloth or other fabric suitable for restraining small domestic animals.

(14) Hair clippers with a minimum of two sets of # 30 or # 40 or equivalent size clipper blades, maintained sharp and in good condition.

(15) Quick-release tourniquets appropriate for the sizes of small domestic animals normally handled by the certificate holder.

(16) A supply of 18-gauge, 20-gauge and 22-gauge disposable needles of medical quality in appropriate lengths and in other gauges and lengths as required by the species and size of small domestic animals normally handled by the certificate holder, in a quantity appropriate considering the number of small domestic animals euthanized by the certificate holder over a period of time and the schedule for ordering these supplies.

(17) A supply of disposable syringes of medical quality in sizes appropriate for the volumes of drugs which must be administered based on the species and sizes of small domestic animals normally handled by the certificate holder, in a quantity appropriate considering the number of small domestic animals euthanized by the certificate holder over a period of time and the schedule for ordering these supplies.

(18) A commercially available sharps container for used needles and syringes, constructed of puncture-resistant material and which complies with 29 CFR 1910.1030(d)(2)(viii) (relating to bloodborne pathogens).

(19) A stethoscope.

(20) A penlight and spare batteries.

(21) Hand soap.

(22) A first-aid kit for humans, which includes, at a minimum, the supplies suggested by the American Red Cross for a first aid kit for a family of four.

(23) A spill kit, as defined by OSHA, suitable for cleaning spills of drugs for euthanasia.

(24) A freezer, refrigerator or mortuary cooler for the storage of the remains of euthanized small domestic animals pending disposal.

(c) The equipment and supplies must be kept clean, free of dust or other foreign matter and in good working order. The equipment and supplies must be stored in an orderly, safe manner.

#### § 31.110. Approved drugs for euthanasia.

(a) The Board will publish the list of approved drugs for euthanasia that certificate holders may purchase, possess and administer in the *Pennsylvania Bulletin* and on the Board's web site. The Board may update the list of approved drugs for euthanasia by adding or deleting drugs from the approved list to conform to standards of practice that are acceptable in the veterinary medical community. Changes to the list of approved drugs will be published in the *Pennsylvania Bulletin* and on the Board's web site.

(b) A certificate holder may petition the Board for the addition or deletion of drugs for euthanasia on the Board's approved list by filing a written petition with the Board setting out the request and justification for the request, as a petition for amendment of regulations under 1 Pa. Code § 35.18 (relating to petitions for issuance, amendment, waiver or deletion of regulations).

(c) A certificate holder may use drugs for euthanasia only to provide humane euthanasia of small domestic animals within the shelter facility.

(d) A certificate holder shall use drugs for euthanasia within the expiration date printed on the primary commercial container by the manufacturer.

#### § 31.111. Storage and security of drugs for euthanasia, certificates of registration and drug order forms.

(a) A certificate holder shall store all drugs for euthanasia in accordance with the Federal regulations at the level of security required for practitioners at 21 CFR 1301.71—1301.77 (relating to security requirements). The level of security required may vary depending on the registered location, the number of employees and other personnel who have access to the area where drugs for euthanasia are stored, the quantity of drugs for euthanasia kept on hand and the prior history of theft or diversion. Specific questions regarding the adequacy of security measures shall be directed to the DEA.

(b) A certificate holder shall provide for the storage, security and disposal of drugs for euthanasia at the shelter. Acceptable storage and security are required at the location for which the animal protection organization is registered with the Board and the DEA. Expired drugs shall be disposed of in accordance with Federal law and implementing regulations at 21 CFR Part 1317 (relating to disposal).

(c) A certificate holder shall store all drugs for euthanasia in a securely locked, substantially constructed cabinet which is securely attached to the building in which it is housed, and which is accessible only to personnel authorized by the animal protection organization to have access to the drugs. A list of individuals

authorized to have access to the drugs shall be provided to the Board upon initial inspection, reinspection or upon request.

(d) A certificate holder shall store drugs for euthanasia in an environment that meets the manufacturer's recommendations for proper storage.

(e) A certificate holder shall maintain its original DEA Certificate of Registration in the cabinet or safe or separately in a securely locked metal container within the cabinet or safe, as appropriate, so that it is accessible only to the shelter director in charge of ordering or purchasing drugs for euthanasia or an individual who has a current DEA Certificate of Registration.

(f) A certificate holder shall secure unexecuted order forms for Schedule II drugs (DEA Form 222) in a cabinet or safe or separately in a securely locked metal container within the cabinet or safe, as appropriate, which is accessible only to the shelter director or an individual who has a current DEA Certificate of Registration for Schedule II drugs.

**§ 31.112. Maintenance of records and inventories of drugs for euthanasia.**

(a) A certificate holder shall comply with all applicable Federal and State laws, rules and regulations relating to registration, ordering and receiving, security, record keeping, inventory and disposal of drugs for euthanasia.

(b) A certificate holder shall maintain all drugs for euthanasia in their original container, clearly marked as to contents, until the drugs are ready to be used or reconstituted for use.

(c) A certificate holder shall maintain current accurate records of the purchase, administration, transfer and disposal of drugs for euthanasia. These records shall consist of all of the following:

(1) A master logbook containing information about the purchase, receipt and disposal of all drugs for euthanasia.

(2) Drug administration records for every drug for euthanasia.

(3) A weekly physical inventory of all drugs for euthanasia.

(d) The master log shall be created and maintained as required by the DEA.

(e) The drug administration records shall meet all of the following requirements:

(1) Be made available to the Board or its agents on demand.

(2) Consist of a separate form for each container of a drug for euthanasia on which all of the following information is recorded:

(A) The generic name of the drug for euthanasia.

(B) The volume of the container.

(C) The concentration of the drug for euthanasia in milligrams per milliliter, capsule or tablet, as applicable.

(D) The species, weight and individual identification number, if applicable, of every small domestic animal to which the contents of the container were administered, the route of administration and the volume or amount of drugs for euthanasia administered.

(E) The remaining balance of the drugs for euthanasia in the container.

(3) Be maintained at the shelter facility in a readily retrievable file.

(f) The weekly physical inventory of drugs for euthanasia shall meet all of the following requirements:

(1) Be conducted in accordance with DEA regulations at 21 CFR 1304.11 (relating to inventory requirements) and be recorded on a form acceptable to the DEA.

(2) Be signed or initialed by the supervisor of animal care services.

(3) Be maintained in a readily retrievable file at the shelter where the drugs are stored.

(g) The supervisor of animal care services or his or her designee shall report suspected or documented theft or diversion of drugs for euthanasia to the Board and the DEA immediately.

(h) A certificate holder shall maintain original copies of the records at the shelter for not less than 2 years.

(i) If a certificate holder surrenders its Board or DEA Certificate of Registration for a shelter, the original copies of the records required by this section shall be retained at the shelter facility if the shelter is a subsequent certificate holder. If the shelter is not a subsequent certificate holder, or if retaining the records at the shelter facility is impossible or impracticable, the certificate holder shall notify the Board, in writing, at least 30 days prior to the date a certificate holder surrenders its Board or DEA Certificate of Registration. The written notice must include instructions on how to obtain copies of the records from the custodian of the records and the name, address and telephone number of the custodian of records. The custodian of records shall maintain original copies of the records for not less than 2 years.

(j) If a certificate holder surrenders its Board or DEA Certificate of Registration, the certificate holder shall promptly dispose of drugs for euthanasia in accordance with DEA regulations at 21 CFR Part 1317 (relating to disposal) and shall immediately, upon completion of disposal, send a copy of the disposal documentation to the Board.

**§ 31.113. Renewal of certificate of registration.**

A certificate of registration shall be renewed biennially before December 1 of each even-numbered year by filing a biennial renewal application provided by the Board and paying the biennial renewal fee in § 31.104 (relating to schedule of fees). A certificate holder shall renew the certificate prior to the expiration date of the certificate. Applications for renewal must be submitted in accordance with this subchapter and in the manner and format prescribed by the Board. A renewed certificate of registration is valid for a period of 2 years. An initial certification of registration issued at any time after September 1 of an even-numbered year will not be subject to renewal until the next even-numbered year.

**§ 31.114. Grounds for refusal, suspension, revocation or imposition of other disciplinary sanction.**

(a) A certificate holder is subject to the disciplinary provisions in the act, including the authorization by the Board to discipline any license or certificate in section 21 of the act (63 P.S. § 485.21), which applies to the certificate of registration granted to an animal protection organization, for violating the act, this chapter and other applicable law as set forth in § 31.103 (relating to applicability of other laws and rules). The Board may refer matters related to a certificate holder to other civil, criminal or administrative agencies for investigation.

(b) A certificate holder is subject to the penalty provisions in the act, ADMAL, this chapter and other applicable law.

(c) A certificate holder or an animal protection organization that does not hold a current certificate of registration with the Board may not provide euthanasia to small domestic animals under ADMAL. The following apply:

(1) Violations of this section may be prosecuted before the Board under the act, ADMAL, 63 Pa.C.S. § 3108 (relating to civil penalties) or this chapter.

(2) The Board may refer any suspected or proven violation of the act, ADMAL, 63 Pa.C.S. § 3108 or this chapter for criminal prosecution.

(d) A certificate holder is subject to discipline by the Board for all of the following:

(1) Failing to admit agents of the Board to conduct investigations or inspections of the certificate holder's compliance with applicable laws or for failing to admit agents of the PDA to conduct investigations or inspections that the PDA is authorized to conduct.

(2) Having discipline imposed by the DEA on the DEA Certificate of Registration or any enforcement action by the PDA.

(3) Failing to ensure that euthanasia technicians employed by or under contract with the certificate holder hold a current license issued by the Board.

(4) Allowing a euthanasia technician to perform duties in an unsafe or inhumane manner or in a manner that violates applicable law.

**§ 31.115. Disciplinary sanctions.**

(a) When the Board finds that a certificate holder or unlicensed entity performing euthanasia has violated the act or ADMAL, the Board may suspend or revoke the certificate of registration, impose other disciplinary sanctions set forth in section 24 of the act (63 P.S. § 485.24) and may impose civil penalties provided for in section 28 of the act (63 P.S. § 485.28), in section 502 of ADMAL (3 P.S. § 328.502) and in 63 Pa.C.S. § 3108 (relating to civil penalties).

(b) Disciplinary action will be taken in accordance with the procedures set forth in the act, 2 Pa.C.S. Chapter 5, Subchapter A and Chapter 7, Subchapter A (relating to Administrative Agency Law) and 1 Pa. Code §§ 31.1—35.251 (relating to General Rules of Administrative Practice and Procedure).

(c) The Board will summarily revoke the certificate of a certificate holder if the PDA revokes a license associated with the shelter or certificate holder.

**EUTHANASIA TECHNICIANS**

**§ 31.121. Application for licensure.**

(a) An applicant for licensure as a euthanasia technician shall do all of the following:

(1) File an application for licensure in a manner and format approved by the Board.

(2) Pay the application fee in § 31.104 (relating to schedule of fees) which shall be submitted with the application. Application fees are nonrefundable, regardless of the Board's determination as to whether a license will issue.

(3) Demonstrate that the applicant meets the requirements of ADMAL and this chapter.

(b) An applicant whose application for licensure has been provisionally denied by the Board is entitled to a hearing at which the applicant will bear the burden of demonstrating that the application should be granted.

(c) Final denial of an application for licensure is subject to appeal to the Commonwealth Court of Pennsylvania.

**§ 31.122. Qualifications for licensure; duty to update licensure information.**

(a) The Board may issue a euthanasia technician license to an applicant who pays the application fee in § 31.104 (relating to schedule of fees) and submits satisfactory evidence that the applicant meets all of the following requirements:

(1) Is 18 years of age or older.

(2) Has received a high school diploma or its equivalent.

(3) Has adequate knowledge of the potential hazards and proper techniques to be used in the administration of drugs for euthanasia by satisfying the requirements of this section and meets at least one of the following criteria:

(i) Has successfully completed a euthanasia technician certification course, including at least 14 hours of instruction, which is administered by an animal protection organization or school approved by the Board under § 31.123 (relating to educational programs and examinations for euthanasia technicians) to administer the course and is listed on the Board's web site as an approved course.

(ii) Is a euthanasia technician registered or licensed under the laws of another state or territory of the United States which has requirements substantially similar to the requirements of this section and who presents satisfactory proof to the Board of being engaged in the practice of euthanasia for a period of at least 1 year out of the past 5 years.

(4) Has not been convicted of a drug trafficking offense as defined in 63 Pa.C.S. § 3113(i) (relating to consideration of criminal convictions), a crime that directly relates to the profession as defined in 63 Pa.C.S. § 3102 (relating to definitions) or a crime of violence as defined in 42 Pa.C.S. § 9714 (relating to sentences for second and subsequent offenses), unless the applicant demonstrates, at a hearing before the Board or its designee, the required mitigating or rehabilitative criteria as enumerated in the act and 63 Pa.C.S. § 3113(b)(1), as applicable.

(5) Has adequate knowledge of the Commonwealth's statutes and regulations relating to euthanasia and demonstrates knowledge in a manner and format approved by the Board.

(b) An application for licensure will not be considered until the application is complete, including providing a criminal background check, obtaining verification of licensure in other states or making personal written statements regarding matters related to the qualifications for licensure as instructed by Board staff.

(c) An application for licensure will be thoroughly investigated. The Board or its agents may inquire from the references or by other means the Board deems expedient as to the accuracy of the information submitted. If the replies from the references cited are not received within a reasonable time, the Board will notify the applicant so the applicant can provide additional references. Information obtained in the investigation of an application will be maintained by the Board as a permanent record and will remain the property of the Board.

(d) The Board reserves the authority to require an applicant to provide additional information or evidence to

support the application for licensure. The Board may require an applicant to appear before the Board to provide the Board with additional information or evidence.

(e) An application for licensure submitted to the Board will be active for a period of 12 months from the date the application fee is paid by the applicant. If an application is not completed within 12 months, it will be deemed withdrawn and a new application and application fee will be required should the applicant later seek licensure.

(f) An applicant shall update the application for licensure if any information on the application changes prior to issuance of the license.

**§ 31.123. Educational programs and examinations for euthanasia technicians.**

(a) In accordance with section 304(c)(1)(ii)(A) of ADMAL (3 P.S. § 328.304(c)(1)(ii)(A)), the Board may approve euthanasia technician certification courses that include at least 14 hours of instruction, administered by any of the following:

- (1) The National Animal Control Association.
- (2) The American Humane Association.
- (3) The Humane Society of the United States.
- (4) The Pennsylvania Veterinary Medical Association.
- (5) The University of Pennsylvania School of Veterinary Medicine.
- (6) The Federated Humane Societies of Pennsylvania.
- (7) Another organization or school approved by the Board.

(b) The Board will announce the list of approved euthanasia technician certification courses on its web site.

(c) Administrators of euthanasia technician certification courses that wish to be included on the list of Board-approved courses shall submit all of the following to the Board:

- (1) A list of the minimum qualifications of instructors who will teach the courses.
- (2) A copy of the program curriculum, which must consist of a minimum of 14 hours of instruction and must evidence the ability to provide certificate holders with the knowledge and ability to provide humane handling and euthanasia to small domestic animals in this Commonwealth by the administration of injectable agents by intravenous and intraperitoneal injection. Curriculum must include content in all of the following:
  - (i) Humane handling and appropriate restraint of small domestic animals for euthanasia.
  - (ii) Appropriate criteria and techniques to verify the death of a small domestic animal.
  - (iii) Proper handling of drugs for euthanasia.
  - (iv) Proper security and storage of drugs for euthanasia.
  - (v) Required documentation related to drugs for euthanasia.
  - (vi) Correct calculation of a dosage of drugs for euthanasia.
  - (vii) Universal precautions for handling and disposal of needles and syringes.
  - (viii) Preparation of injection site.
  - (ix) Injection technique for intravenous injection.

(x) Injection technique for intraperitoneal injection.

(xi) Appropriate uses of intraperitoneal injection.

(3) A copy of the evaluative tool used to measure competence of students who have completed the certification course. An examinee may be provided no more than three attempts at demonstrating competence through utilization of the administrator's evaluative tool without a requirement that the student retake the training course prior to being reevaluated.

**§ 31.124. Reports to be filed with the Board.**

(a) A licensed euthanasia technician shall provide written notice of any of the following to the Board within 30 days:

(1) A disciplinary action taken against the licensee by a licensing agency of another jurisdiction.

(2) A finding or verdict of guilt, an admission of guilt, a plea of nolo contendere, probation without verdict, a disposition in lieu of trial or an Accelerated Rehabilitative Disposition of any felony or misdemeanor offense.

(3) A change in the licensee's name or mailing address.

(b) The Board may take disciplinary action against a licensee who violates this section.

**§ 31.125. Employment required; services to be provided at shelter only.**

A euthanasia technician license authorizes the license holder to administer drugs for euthanasia only on the shelter premises at which the euthanasia technician is employed or with which the euthanasia technician has a contract for the provision of humane euthanasia services.

**§ 31.126. Renewal of license, inactive status and reactivation of license.**

(a) A euthanasia technician license shall be renewed biennially before December 1 of each even-numbered year, by filing a biennial renewal application provided by the Board and paying the biennial renewal fee in § 31.104 (relating to schedule of fees).

(b) A euthanasia technician shall renew the euthanasia technician's license prior to the expiration date of the license by submitting a renewal form provided by the Board and paying the biennial renewal fee. Applications for renewal must be submitted in accordance with this subchapter and in the manner and format prescribed by the Board. A renewed license is valid for a period of 2 years. An initial euthanasia technician license issued at any time after September 1 of an even-numbered year will not be subject to renewal until the next even-numbered year.

**§ 31.127. Duties of euthanasia technicians.**

(a) A euthanasia technician shall perform euthanasia services humanely, as further set forth in § 31.128 (relating to standards for euthanasia of small domestic animals).

(b) A euthanasia technician shall do all of the following:

(1) Maintain the euthanasia technician's license in active status.

(2) Provide updated information to the Board as set forth in § 31.124 (relating to reports to be filed with the Board).

(3) Perform small domestic animal euthanasia in accordance with ADMAL and this chapter.

(4) If chemical restraint is not used, document the specific circumstances that make the administration of chemical restraint more likely to cause more distress to a particular small domestic animal.

(5) If intravenous injection of euthanasia solution cannot be used, document the physical condition, size or behavior of any dog or cat over the age of 16 weeks and any other small domestic animal to support the use of peritoneal injection.

(6) Verify death of a small domestic animal by examination and establishment of the absence of heartbeat and respiration and lack of corneal and pupillary reflexes before disposal of the body.

(7) Maintain the security of all controlled substances and other drugs used for the purposes of small domestic animal euthanasia.

(8) Promptly and accurately record the quantity of controlled substances and other drugs used for euthanasia and any drug waste.

(9) Immediately report suspected or documented theft or diversion of controlled substances and other drugs used for the purposes of small domestic animal euthanasia to the Board and the DEA.

**§ 31.128. Standards for euthanasia of small domestic animals.**

(a) In accordance with ADMAL, the euthanasia of small domestic animals in the custody of a certificate holder shall comply with the standards set forth in this subchapter.

(b) Euthanasia of small domestic animals shall be performed by administration of drugs for euthanasia approved by the Board.

(c) Euthanasia shall be provided in a humane manner, meaning that services are provided in a professional and gentle manner with respect for the individual small domestic animal and nature of that small domestic animal and its species, with the goal of minimizing pain, fright and anxiety in the small domestic animal being euthanized and any other animals in the area, using the best available ethical and veterinary medical knowledge and technology.

(d) The small domestic animal shall be kept as free from pain, fear and anxiety as possible.

(e) Death shall be confirmed by examination and establishment of the absence of heartbeat and respiration and lack of corneal and pupillary reflexes before disposal of the body.

(f) Drugs for euthanasia shall be administered in a registered facility only by:

(1) A licensed veterinarian.

(2) A licensed euthanasia technician acting in accordance with ADMAL and this subchapter.

**§ 31.129. Standards for administration of drugs for euthanasia.**

An individual administering drugs for euthanasia shall comply with all of the following standards:

(1) A small domestic animal shall be restrained, as defined in § 31.102 (relating to definitions), after injection of drugs for euthanasia until the small domestic animal is unconscious, except as provided in paragraph (2).

(2) If a small domestic animal should not be held or restrained because holding or other physical restraint would either increase the anxiety or fear of the small domestic animal or would place the person holding or restraining the small domestic animal in physical danger, it shall be placed alone in an enclosure which is appropriate for the species and size of the small domestic animal and permits adequate visual observation of the small domestic animal, except that dogs or cats under 16 weeks of age or other small domestic animals which have not been weaned may be placed together in an enclosure with their littermates or dam, or both.

(3) Unless the small domestic animal to be euthanized is heavily tranquilized, anesthetized or comatose, an individual administering drugs for euthanasia shall have the assistance of an animal handler immediately available in the euthanasia area when the individual is administering an intravenous injection.

(4) Chemical restraint shall be used to minimize distress to the small domestic animal or danger to the staff, unless specific documented circumstances make the administration of chemical restraint more likely to cause more distress to the small domestic animal. Chemical restraint may be administered by routes as appropriate to the objectives of minimizing distress and maximizing safety.

(5) Intravenous injection of euthanasia solution shall be used on all dogs and cats 16 weeks of age and older and any other small domestic animal, unless the physical condition, size or behavior of the small domestic animal presents a danger to the individual performing the injection or the animal handler, or the physical restraint required for intravenous injection would cause unnecessary fear or anxiety in the small domestic animal.

(6) A drug for euthanasia may be administered by intraperitoneal injection to a small domestic animal only when the physical condition, size or behavior of the small domestic animal presents a danger to the individual performing the injection or the animal handler, the physical restraint required for intravenous injection would cause unnecessary fear or anxiety in the small domestic animal or the small size of the small domestic animal would make location and injection into a vein extremely difficult or impossible. The following apply:

(i) After an intraperitoneal injection of a drug for euthanasia, the small domestic animal shall be placed alone in an enclosure which is appropriate for the species and size of the small domestic animal and permits adequate visual observation of the small domestic animal and where the small domestic animal can be kept calm and free of anxiety. An exception may be made in the case of young littermates.

(ii) A small domestic animal which has received a drug for euthanasia by intraperitoneal injection shall be observed at least every 5 minutes after injection until death is verified.

(7) The gauge and length of the needle or catheter used shall be appropriate to minimize pain and distress for the size and species of the small domestic animal and the method of injection.

(8) A new, unused disposable needle or catheter of medical quality shall be used for the administration of drugs for euthanasia for each small domestic animal. Each needle or catheter shall be disposed of in a commercial sharps container immediately after a single use.

**§ 31.130. Grounds for refusal, suspension, revocation or imposition of other disciplinary sanction.**

(a) A licensed euthanasia technician is subject to all disciplinary provisions in the act, ADMAL, this chapter and other applicable law.

(b) A licensed euthanasia technician is subject to all penalty provisions in the act, ADMAL, this chapter and other applicable law.

(c) An individual performing euthanasia under this subchapter who is not licensed by the Board or otherwise authorized by law to perform euthanasia may not provide euthanasia to small domestic animals subject to ADMAL. Violations may be prosecuted before the Board and may be referred for criminal prosecution.

[Pa.B. Doc. No. 24-1110. Filed for public inspection August 9, 2024, 9:00 a.m.]