SECTION 43 STATEMENT TO THE VETERINARY COUNCIL BY THE COMPLAINTS ASSESSMENT COMMITTEE: CAC16-15

Dr A

Section 39 referral – Medicines Control, Ministry of Health

Dr A Veterinarian
B Clinic where Dr A works

Summary

1. A Complaints Assessment Committee (CAC) of the Veterinary Council of New Zealand (VCNZ) has investigated the above complaint. Under section 43 of the Veterinarians Act 2005 (the Act), the CAC has reached a decision as set out below.

Background

2. Dr A is owner and head veterinarian at B.

3. Medicines Control, Ministry of Health (MoH), alerted Council to potential concerns about the nature and frequency of Dr A's prescribing.

4. The notification was considered by Council's Notification Review Group (NRG) who referred the matter, under its delegated s39 authority, to a CAC to investigate under s40 of the Act.

Information considered

5. The CAC considered the following information.
   - Letter of 10 March 2016 from MoH to the Registrar with a screen shot of the pharmacy computer screen showing the history of prescriptions for 'Dog A' from Dr A
   - Dr A's response of 10 May 2016 to the NRG
   - Copies of the original scripts related to the original notification
   - Letter of 15 June 2016 referring the concerns to the CAC from the NRG
   - Letter of 20 July from Dr A responding to the referral
   - Client records provided by Dr A
   - Information provided by the Ministry of the Health regarding the Medicines Act (1981) and the Medicines Regulation Act (1984)

Brief case summary

6. MoH notified Council of concerns about prescribing by Dr A. In the notification letter, it was noted that *'The types of medicines and frequency of prescribing for some of [the medications] indicates to us that they may not be prescribed for veterinary use'.*

7. MoH provided a screen shot of the pharmacy computer which recorded a history of prescriptions of the following medications for 'Dog A'.
   - Silvasta Avigra 100mg tablets
   - Voltaren Ophthalmic drops 0.1%
   - Omeprazole 40mg and 10mg capsules

- Terbinafine HCL 250mg tablets
- Diazepam 5mg tablets
- Amoxicillin trihydrate 500mg capsules
- Ciprofloxacin 250mg tablets
- Domperidone 10mg tablets
- Albalon Lfilm Eye drops
- Lasix 10mg/ml liquid

8. The information received from MoH was referred to the NRG and Dr A was asked for his comments. He was asked specifically to:
   - comment on the purpose of the prescriptions
   - provide clinical records relating to these prescriptions
   - provide peer reviewed data on the use of the drugs for the condition he had prescribed it for (at that dose and frequency).

9. In his response to the NRG, Dr A wrote that:
   - the pharmacy supplies the clinic with medication in two ways
     - by a normal drug prescription where the clients collects the script from the clinic and has it filled at the pharmacy (he stated that sometimes *'as part of our customer service we will collect the drug[s] from [the] Pharmacy on [the client's] behalf and they will then collect from our clinic'*
     - by normal drug prescription – drugs are supplied for in-house veterinary use. These *'may be used for the treatment of a hospitalised case or dispensed to our client by or under the supervision of one of our veterinarians.'* He wrote that *'until this notification these drugs were prescribed under 'dog A' simply to differentiate from those products being dispensed directly to our client.'*
   - the minimal quantity that can be procured of some drugs from a veterinary wholesaler is *'far in excess as to the amount [B] require so simply it's a question of economics and sound practice management'.*

10. Regarding the prescribing of Silvasta Avigra, Dr A wrote that this drug is *'used by myself, for personal use only, from time to time. It has never been prescribed too (sic), or used on, any animal'*. He noted that he has *'never supplied, or sold, this drug to any other persons'*.

11. Dr A wrote that he believed *'there had been an administration error on my part in that I would have provided a list of products required from the pharmacy, to be collected a short time later, and their staff [the pharmacy staff] have not differentiated prescription and non-prescription products, collectively putting all products under B''*

12. Dr A also wrote that Avigra is a restricted pharmacy sale product which can be dispensed by a pharmacist specially qualified to dispense this product as long as certain requirements are met. Dr A wrote that he had complied with the requirements eg consultation with the pharmacist.

13. On 9 June 2016 (after Dr A's response had been received by the NRG), MoH provided copies of 3 original prescriptions completed by Dr A for Avigra. (These were dated 11 January 2016, 5 February 2016 and 15 April 2016.) These prescriptions were all annotated *'Animal treatment only'.* With this new information, the NRG considered further investigation was required. As investigation is beyond the scope of the NRG's function, the matter was referred to the CAC.

14. The CAC asked Dr A for a response to the notification in general, as well as his comments on the new information provided by MoH. In response he wrote that:

- of the medications sought from the pharmacy, some were prescribed for specific cases and some were requested to be held in the clinic dispensary for use as, and when, required
- Omeprazole was ordered from the pharmacy as the small amounts required could not be provided by the veterinary wholesaler
- Diazepam is usually ordered by the clinic from the wholesaler and so he *'can only assume we [the clinic] was out of stock when a prescription was written or our locum vet was not aware we had the product in stock'*
- the Lasix liquid, Terbinafine and Ciprofloxacin were obtained for specific cases for which Dr A provided clinical records
- Amoxicillin/Clavulanic acid was purchased to hold in stock until the supply arrived from the wholesaler
- Voltarin (sic) ophthalmic drops were purchased with a view to trying them post-operatively and in cats with severe conjunctivitis
- the Avigra was prescribed in error as a prescription is not required for its supply from the pharmacy and it is not used within the veterinary practice.

15. Dr A wrote that following a Ministry of Health audit, new systems for prescribing had been established and implemented (both at the clinic and at the pharmacy). He was asked to provide information about the specific changes that have been put in place. He advised that:
    - *'any drug required for veterinary use will be scripted on B letterhead, with only one drug written per letterhead'*
    - *those drugs required for a specific patient will detail the name, breed and species of animal plus the clients name and address*
    - *those drugs to be used 'in-house' and kept at the clinic will also detail the name, breed and species and surname of the owner but the address will be that of our clinic*
    - all veterinary prescriptions will conclude with the notation 'for animal use only'
    - *'Any personal non-prescription product will no longer be requested on veterinary letterhead, hence avoiding any confusion.'*

Issues raised in the complaint

16. MoH's notification raised concerns about whether the medicines were being prescribed appropriately ie for the animal indicated on the prescription or whether they were, in some instances, being procured for general animal use, or for human use.

The Code of Professional Conduct for Veterinarians

17. The CAC referred to the requirements of the Code of Professional Conduct for Veterinarians (the Code). The sections of the Code which are relevant to this complaint are attached as Appendix 1.

18. The CAC also referred to Medicines Act (1981) and the Medicines Regulations Act (1984). The relevant sections of these acts are attached as Appendix 2. Medicines Act –
    - Section 5
    - Section 18(2) and (2A)
    - section 27(c)

    Medicines Regulations 1984 Section 41

CAC considerations

19. Section 5 of the Medicines Act defines wholesaling and retailing. Wholesaling includes selling to a person who the vendor believes is buying the product for the purpose of

selling in the course of their business. The conditions of the licence to operate a pharmacy do not enable the sale of medicines by wholesale. Given this, prescription medicines can only be sold to a veterinarian via presentation of a prescription for a specifically identified patient/animal, under that veterinarian's care, for the treatment of that animal.

20. Veterinarians have no legal authorization under the Medicines Act to write a generic prescription in order to be able to obtain prescription medicines from a pharmacist to be able to hold in anticipation of use. (They may legally obtain prescription medicines from a wholesaler to hold in anticipation of use.)

21. In summary, the above considerations (19 and 20) mean that
    - veterinarians can write prescriptions for prescription medicines for an animal under their care for a client to take to a pharmacy to get filled
    - veterinarians can write a prescription for an animal under their care in the veterinary clinic, collect the medicine and take it back to the clinic to use on that specific animal
    - medicines may not be obtained from a pharmacy for the purpose of storing on a clinic's shelves for use as, and when, required.

22. It is the CAC's opinion that the information provided by MoH, regarding the use of retail pharmacies to obtain drugs for anticipated use (ie that this is not permitted), is not widely known within the veterinary profession and that this needs to be remedied.

23. The CAC was satisfied that Dr A's actions were conducted due to a lack of knowledge of the limitations around the use of Retail Pharmacies and also due to carelessness (the scripts for Avigra). The CAC is also satisfied with Dr A's statement that he has consulted with pharmacy staff (as legally required) in order to be treated with the product Silvasta avigra, and as such, is not self-medicating. The CAC noted that Dr A has made changes to the clinic process around prescribing in response to this complaint.

CAC suggestions

24. The CAC suggests that, if he has not already done so, Dr A obtain a copy of the NZVA Guide to Veterinary Authorising (Prescribing) and Dispensing and uses this to further refine his practice prescribing process.

25. That VCNZ publicise information for veterinarians about the appropriate use of retail pharmacies for obtaining medication by prescription.

Decision

26. The CAC considers that this case can be closed and no further action[1] needs to be taken.

Reasons

27. The CAC considers that this prescribing occurred due in part to a lack of knowledge of the limitations on the use of medication obtained by prescription from a pharmacy, and in part due to carelessness.

[1] Pursuant to s43(1)(f) of the Act

28. In terms of any lack of knowledge, education has been provided by way of this statement. Regarding careless prescribing (Avigra), the CAC noted that Dr A had made changes to the clinic's prescribing practice to ensure greater vigilance in the future.

27 September 2016

Dr Mark Simpson
Chair
Complaints Assessment Committee

Date

Learnings for the profession

The CAC believes that there may be wider misunderstanding about the obtaining of medication from pharmacies to be stored by veterinarians for future use. In summary, the statutory guidelines state that:

- veterinarians can write prescriptions for prescription medicines for an animal under their care for a client to take to a pharmacy to get filled
- veterinarians can write a prescription for an animal under their care in the veterinary clinic, collect the medicine and take it back to the clinic to use on that specific animal
- medicines may not be obtained from a pharmacy for the purpose of storing on a clinic's shelves for use as and when required.

Appendix 1

Relevant sections of Code of Professional Conduct for Veterinarians (the Code)

Veterinary Medicines

Veterinarians must exercise sound professional judgement when authorising, dispensing, recommending, selling and using veterinary medicines.

1. When using or selling any unrestricted veterinary medicine or dispensing a restricted veterinary medicine, veterinarians must:

    b. Practice in accordance with the Agricultural Compounds and Veterinary Medicines Act 1997, Animal Products Act 1999, Hazardous Substance and New Organisms Act 1996, Health and Safety in Employment Act 1992, Medicines Act 1981, Misuse of Drugs Act 1975 and associated subordinate legislation in relation to all these acts as well as other relevant legislation.

11. Veterinarians must not use, recommend or authorise the use of veterinary medicines, prescription medicines, pharmacy-only medicines or restricted medicines (as defined in the Medicines Act 1981) for use on humans.

    Understanding Section 11

    a. Recommending or authorising the use of veterinary medicines for use on humans is illegal and unethical and needs no further explanation. It must not be done.

    b. The Medicines Act 1981 contains a specific exemption allowing veterinarians to authorise the sale, supply or administration of prescription medicines (as defined in the Medicines Act 1981) for the treatment of animals under the care of that veterinarian. The same legal restraint applies to pharmacy-only medicines and restricted medicines. It is illegal and unethical for veterinarians to authorise the use of these medicines for the treatment of humans.

Appendix 2

Medicines Act (1981) – Section 5:

Meaning of selling by wholesale, selling by retail, and selling in circumstances corresponding to retail sale

(1) In this Act, unless the context otherwise requires, every reference to selling anything by wholesale is a reference to selling it to a person whom the vendor believes to be buying it—

(a) for the purpose of—

(i) selling or supplying it; or

(ii) administering it or causing it to be administered to 1 or more human beings—

in the course of a business carried on by that person; or

(b) for the purpose of—

(i) using it in any scientific, educational, or commercial laboratory; or

(ii) using it in any process of manufacture or trade not involving the resale of that thing.

(2) In this Act every reference to selling anything by retail is a reference to selling it to a person whom the vendor believes to be buying it for a purpose other than one specified in subsection (1).

(3) In this Act every reference to supplying anything in circumstances corresponding to retail sale is a reference to supplying it, otherwise than by way of sale, to a person whom the supplier believes to be receiving it for a purpose other than one specified in subsection (1).

Section 18(2) and (2A):

18 Sale of medicines by retail

(2) No person may sell by retail any prescription medicine otherwise than under a prescription given by an authorised prescriber, a veterinarian, or a delegated prescriber.

(2A) No person may supply, in circumstances corresponding to retail sale, any prescription medicine otherwise than—

(a) under a prescription given by an authorised prescriber, a veterinarian, or a delegated prescriber; or

(b) in accordance with a standing order.

Section 27(c):

Exemptions for veterinarians and certain registered health practitioners

Notwithstanding anything in section 17 or section 18, but subject to the other provisions of this Act and to any regulations made under this Act,—

(c) any person may sell or supply—

(i) to a veterinarian, or, if so required by that veterinarian, to any other person, any medicine for administration to an animal under the care of that veterinarian.
(ii) [Repealed]

Medicines Regulations Act (1984)

Form of prescription

Every prescription given under these regulations shall—

(a) be legibly and indelibly printed; and

(b) be signed personally by the prescriber with his usual signature (not being a facsimile or other stamp), and dated; and

(c) set out the following information in relation to the prescriber:
  (i) the prescriber's full name; and
  (ii) the full street address of the prescriber's place of work or, in the absence of the prescriber having a place of work, the postal address of the prescriber; and
  (iii) the prescriber's telephone number; and

(d) set out—
  (i) the surname, each given name, and the address of the person for whose use the prescription is given; and
  (ii) in the case of a child under the age of 13 years, the date of birth of the child; and

(e) indicate by name the medicine and, where appropriate, the strength that is required to be dispensed; and

(f) indicate the total amount of medicine that may be sold or dispensed, or the total period of supply; and

(g) if the medicine is to be administered by injection, or by insertion into any cavity of the body, or by swallowing, indicate the dose and frequency of dose; and

  (h) if the medicine is for application externally, indicate the method and frequency of use; and

(i) [Revoked]

(j) in the case of a prescription relating to the treatment of an animal,—
  (i) set out the surname, each given name, and the address of the owner of the animal; and
  (ii) contain the following statement, or words of similar meaning: "Not for human use".