

# DECISION AND SECTION 43 STATEMENT TO THE VETERINARY COUNCIL BY THE COMPLAINTS ASSESSMENT COMMITTEE: CAC16-16

## Dr A Complaint from Mr B

**Dr A**      Veterinarian complained about  
**Mr B**      Complainant  
**C**        Clinic where Dr A works  
**D**        Mr B's cat  
**E**        Clinic where D was treated after C  
**Dr F**     Veterinarian that treated D at E

### Summary

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

### Background

2. Dr A is a senior veterinarian at C.
3. In correspondence received on 7 July 2016, Mr B notified Council of a formal complaint about Dr A. This was referred to a CAC to investigate under s40 of the Act.
4. Mr B complained that his cat was 'mistreated' while it was under Dr A's care for a dental procedure. The cat subsequently died and Mr B considered Dr A provided him with no answers to his questions about what happened. Mr B also complained that Dr A did not provide him with his cat's clinical records when he requested these.

### Information considered

5. The CAC considered the following information.
  - Notification information received 7 July 2016 including:
    - a completed concern form
    - health screen test results
    - clinical records from C for 17 and 18 May 2016
    - a timeline with summary of events
    - full clinical history from E including notes from the emergency vet
  - response from Dr A received 12 August 2016
  - full clinical records provided by Dr A
  - copy of the owners' consent form completed by Mr B prior to the dental procedure
  - email of 13 September 2016 from Dr F confirming that he received notes from Dr A on 23 May 2016 (the same day as they were requested).

## Brief case summary

6. Mr B took his 9½ year old cat, D, to Dr A for an annual checkup on 17 May 2016. At the checkup appointment, Dr A advised Mr B that D had gingivitis and needed a 'dental' as soon as possible. D's weight was discussed, with recommendations for food options, and Mr B reported that Dr A had told him that he couldn't hear the heart murmur which had previously been detected. Mr B delivered D to the clinic on the evening of 18 May ahead of the procedure scheduled for the following day.
7. The dental was done on 19 May and Mr B collected D at approximately 4–4.30pm. He noted that D was very quiet. He said that Dr A told him that they had struggled to get blood from D and that it took two staff members to hold him down. Mr B was surprised as his understanding was that blood would be taken while D was asleep for the purpose of testing his liver and kidney function. However, in his response, Dr A notes that these blood tests were pre-anaesthetic bloods (hence the cat was awake).
8. Mr B wrote that Dr A told him he *'had been concerned about D's left kidney due to the blood creatinine being a little bit high and unbalanced'* and that he had taken a urine test to check. He advised that this had come back 'OK' and *'there was nothing to worry about'*.
9. On arriving home, Mr B described D as being in a distressed state with his head dropping. He said he was foaming at the mouth and looked to be in pain. He noted he was repeatedly licking at his gums, he vomited and was *'dry-reaching'*. Mr B wrote that, *'that night, he was drooling/foaming and his neck was really bent over (he couldn't even lift his head), and he seemed to be in increasing pain'*.
10. The following morning, Mr B phoned the clinic. He reported that he was told by the practice manager that the licking of gums was normal following a dental but that he should bring D in straight away.
11. Mr B took D in to the clinic. He was kept for the day, given anti-nausea medication and pain relief. He picked D up at 4.30pm and says Dr A told him that the excessive licking could be due to the laceration on his gums on the top of his back canines and that this was not unusual.
12. Mr B took D home but the cat didn't improve. He called the practice again at about 6.00pm and described the symptoms to the practice nurse. (D was off his food, not drinking and seemed to be in a lot of discomfort.) Mr B reported that the nurse told him that D *'should be right in a few days'* and to call tomorrow if he still had concerns.
13. According to Mr B, D's condition deteriorated overnight and he called the practice again the following morning (Saturday) at about 9.15am. He asked if he could talk to Dr A as he felt that *'D was really bad and not improving'*.
14. Dr A phoned him back early in the afternoon and Mr B described the continuing symptoms again. He said that Dr A told him that the licking and foaming was due to the dental work and that it was normal. He said he advised him to start using toothpaste and brushing his teeth gently and that if he was still concerned on Monday (2 days later) he should *'bring D back in'*. That evening however Mr B considered that D was getting worse and so he phoned the emergency vet. He was told they would need to see him to be able to do a full examination but he said they told him that *'it didn't seem right that D would have his neck drooping and to be still dribbling/foaming this long after a dental procedure'*.

15. The following morning, Mr B took D to the emergency vets. He said they put D on an IV drip, gave him pain relief, took x-rays and '*started to run tests*'. He said they identified that D had sustained a laceration under his tongue, saying that they couldn't identify if the cut was due to the dental procedure or if it was self-inflicted as he was coming out of the anaesthetic. He said they told him it was also possible that it was caused by one of the instruments used during the dental procedure. According to Mr B, they also found that his neck was bruised and showed signs of being strained.
16. D was kept at the clinic overnight where he continued to be monitored and given pain relief.
17. Mr B returned to the emergency vets early on the Monday morning and, at the suggestion of the staff, took D to E where he was seen by Dr F. Dr F reviewed the notes from the emergency vets. He undertook blood testing and continued to give pain relief and fluids.
18. Later that day (23 May) Dr F called Mr B and told him that the results indicated that D was in renal failure.
19. Mr B went to see Dr A to find out '*exactly what occurred during the dental procedure*' and whether there was something they hadn't told him. He said he asked for a copy of D's medical records and notes but that Dr A '*refused*' to give him a copy, telling him he would send them on to E. Dr F has confirmed that these records were received by him from Dr A via email that day.
20. Dr A advised Mr B that he was not aware of the reasons for D's condition. However, while Mr B was at the clinic, Dr A phoned E to discuss the results and to get an update from Dr F. Following the phone call, Mr B said Dr A told him that it was not clear why D had a cut under his tongue or was suffering kidney failure. Mr B said he also told him that one reason for his neck being sore could be that he may have been low in electrolytes which could cause bruising.
21. Mr B asked Dr A to '*take some responsibility for the costs*' incurred however he stated that Dr A '*basically shrugged his shoulders*'. He considered that Dr A showed '*no compassion and care or concern*' that D was dying.
22. At 2.30pm that afternoon Mr B was informed by E that D had died.
23. Dr F went over the autopsy report with Mr B once this was received. According to Mr B, he explained that it may have been possible that D's blood pressure had dropped while under anaesthetic which may cause kidney failure.

### **Issues raised in the complaint**

24. Mr B's primary concern was that D died following the dental procedure, despite being an apparently health cat. He also complained that Dr A refused to give him a copy of his cat's records when he requested them. He reported that he called the clinic and took D back however was told that the symptoms D was displaying were a normal response to dental work.
25. In Mr B's view, Dr A:
  - did not provide him with answers about why D had died
  - '*mistreated*' his cat (leading to bruising on the cat's neck and a laceration in the cat's mouth)

- lacked compassion, care and concern
- failed to detect an issue with D's kidney's *'despite checking his blood and running a urine test'*.

### Dr A's response

26. In response, Dr A wrote that:
- regarding the matter of Mr B's request for clinical records, he told Mr B that he would send the records to E (which he did immediately after Mr B left)
  - there was no mistreatment of D and that extra care was taken due to the obesity of the cat. He said that D was so closely monitored that he *'knew for sure that the wound under his tongue was not done in [their] care'*
  - the blood tests undertaken were pre-anaesthetic blood tests (hence D being awake and not anaesthetized as Mr B had expected) and that he had put the cat on fluids when the tests identified that D was dehydrated
  - at the time he spoke with Mr B on 23 May he was unable to explain what had happened as he did not have the diagnostic test results from E. D was still alive at that stage and so he did not have the benefit of the autopsy report
  - he does not consider he lacked compassion or that the clinic had done anything wrong.

### The Code of Professional Conduct for Veterinarians

27. 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**.
28. The CAC also referred to the Competency Standards and Performance Indicators for Veterinarians (the Competency Standards). The indicators considered to be relevant to this complaint are attached as **Appendix 2**.

### CAC considerations

29. The CAC is satisfied that Dr A provided the relevant clinical notes to E in a timely fashion. However the CAC reminds Dr A that a copy of the clinical notes should be provided to the client, if requested, in addition to providing these to the second opinion clinic.
30. The CAC considers that adequate signed consent was obtained via the clinic's consent form when D was admitted for his dental procedure. The CAC accepts that, although very rare, and as in this case, very unfortunate, the development of renal failure can be an unexpected complication from an anesthetic procedure. The CAC does not consider that the planned dental descale and polish carried any significant risk outside of what was consented to by Mr B when he signed the consent form.
31. The CAC commends Mr B on his responsible care of his pet D in electing to get his cat's dental health issues treated. It also commends his consent to pre anaesthetic blood tests to minimize any risks associated with the pending anaesthetic procedure.
32. Dr A detected raised kidney enzymes in the blood tests (causes include: dehydration; kidney failure; or very rarely, urinary tract blockage/rupture). After examining the urine concentration levels he determined these to be due to a dehydration effect. The urine concentration at the time of the pre anesthetic blood testing shows that at that point in time, D was not suffering from kidney failure.

33. Dr A established intravenous fluid therapy to correct the identified dehydration before anaesthesia and surgery were undertaken. No drugs were given by Dr A that would, or could unnecessarily increase the risk of kidney failure.
34. Although records are brief and there was no dedicated anaesthetic parameter record sheet, the CAC considers that the degree of anaesthetic monitoring of the patient (blood pressure; blood oxygen levels; cardiovascular parameters) was adequate for the procedure performed.
35. The day after the dental procedure, D was re-presented to Dr A as Mr B was concerned about D's condition. The CAC notes that the clinical records for this visit are light on detail, but accepts that Dr A considered a conservative approach of pain relief and anti-nausea medication was indicated based on his findings.
36. Mr B advised that on 21 May he told the nurse he spoke to that he *'can't keep coming back into the vet like this all the time'* and that he *'needed to get him better urgently – not to keep just bringing him and have them do nothing to fix the situation and to keep spending money without results'*. Dr A therefore did not have an opportunity to assess any degree of deterioration in D which had taken place over the previous 24 hours.
37. The CAC noted Mr B's concern that Dr A couldn't give an explanation as to why D had died after the procedure. It accepts that this was the case as:
  - Dr A only found out shortly before the discussion with Mr B that D's condition had deteriorated;
  - Dr A did not have the benefit of discussing the case with the second opinion practice (E) at that time, and
  - the post mortem was yet to be completed that would give the cause of death.
38. The CAC considers that there was no breach of the code in regards to the welfare of D. It recognises that there was a misunderstanding by Mr B about the timing of the pre anaesthetic blood test. By definition, pre anaesthetic blood is sampled and tested before the patient is pre-medicated or anaesthetised. Bruising around the blood sampling site can occur in less cooperative patients that can 'jump off' the needle during sampling.
39. Consideration was given by the CAC to the descale and polish equipment and procedure performed on D by Dr A. Although it can never be known what caused the lesions in D's mouth (self-inflicted or otherwise), it is very unlikely that these would result from surgical mishandling of the equipment involved.

### **CAC suggestions**

40. That attention be paid to ensuring anaesthetic record sheets contain sufficient information, even for more minor procedures.
41. That Dr A review the section of the Code of Professional Conduct relating to the provision of notes to clients, specifically noting that that clients are entitled to a copy of patient notes upon request.

## Decision

42. The CAC considers that this case can be closed and no further action<sup>1</sup> needs to be taken.

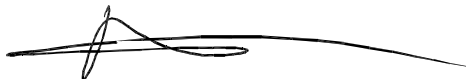
## Reasons

The reasons for the CAC's decision are:

- While the section of the Code relating to the provision of notes to clients was not complied with, this non-compliance is not at a level that reaches the high threshold required for further action to be taken. (The ongoing care of the cat was not compromised by this action as Dr A had provided the records to the vet providing the care for D.)
- All reasonable and generally accepted measures were taken by Dr A to identify and manage any risk factors that would significantly increase the risk of anesthetic complications for the routine dental procedure.
- The bruising around D's neck can be a consequence of blood sampling in some patients. It is extremely unlikely that the oral lesions found in D's mouth were a result of the use the instruments used in the dental descale and polish. Given this, no mistreatment of D's welfare was considered to have occurred.

## Learnings for the profession

Veterinarians are obliged to provide a copy of case notes to the client upon request, even if this history has been provided to a second opinion veterinary clinic for the continuity of care for a patient.



---

Dr Philip Watson  
Chair  
Complaints Assessment Committee

4 October 2016

---

Date

---

<sup>1</sup> Pursuant to s43(1)(f) of the Act

**Animal Welfare**

**Veterinarians have a special duty to protect animal welfare and alleviate animal suffering.**

1. Veterinarians must be familiar with and comply with the Animal Welfare Act 1999 and the relevant Codes of Welfare. In the course of their work, veterinarians must consider and take all reasonable steps to protect the needs of animals in relation to the five basic requirements of
  - a. Proper and sufficient food and water;
  - b. Adequate shelter;
  - c. The opportunity to display normal patterns of behaviour;
  - d. Appropriate physical handling; and
  - e. Protection from, and rapid diagnosis of, injury and disease.

This obligation is qualified however, as the needs in each individual case are assessed according to what is appropriate to the species, environment and circumstances of the affected animal(s).

**Client Relationships**

**Veterinarians must practice in a way that promotes effective communication, trust, meets confidentiality and consent requirements and recognises clients' right to choose.**

1. Veterinarians must interact with clients in a way that promotes effective communication and trust. This includes:
  - a. Listening to clients, respecting their views, responding to their concerns and preferences and treating them with courtesy;

**Understanding Section 1***b. Communication*

- i For trust to exist open and honest communication between the parties is required. Veterinarians are expected to be able to communicate effectively with clients. They need to be able to elicit from clients what their veterinary needs and expectations are. Being able to listen to a client and identify their concerns are important skills. Being able to articulate treatment choices and options is essential.*
- ii Most of VCNZ's expectations around the quality of veterinarians' communications with clients are set out in its Policy Document Competency Standards and Performance Indicators for Veterinarians. This section of the Code focuses on the ethical aspects of communication including consent issues and the confidentiality of information*

2. Veterinarians must obtain appropriate consent before proceeding with a proposed treatment/course of action. Veterinarians must provide clients with the information that they need, in a way that enables the client to understand and give consent to the proposed treatment/course of action. Veterinarians must be satisfied that clients are authorised to provide that consent. Depending on the circumstances the information provided to clients may include:
  - a) The condition of their animal(s);
  - b) Treatment options, including likely outcomes, risks, side effects, complications, costs and benefits;

- c) Referral options where appropriate and how to access;
- d) The veterinarian's skills and experience in providing the proposed treatment (where appropriate);
- e) Post treatment requirements and costs.

Note that the consent requirements may not apply in an animal welfare emergency where the client or owner is unable to be contacted and there is an immediate threat to the life of the animal, or there is an immediate need to relieve unreasonable or unnecessary pain (refer to Animal Welfare requirements of this code).

### **Understanding Section 2**

- a. *The authority to consent to, or decline, a veterinary procedure on one's own animals is a right entitled through ownership. Harm to an owned animal arising from unconsented veterinary treatment can constitute an ethical and potentially a legal breach of the owner's rights. Veterinarians must not undertake any procedures on animals that have the potential to harm the animal or that will incur an economic cost to the owner, without the owner's consent.*

### **Veterinary Services**

**Veterinarians must strive to provide a high standard of veterinary practice.**

- 4. Veterinarians must maintain clear and accurate clinical records. The records must:
  - a. Be of such detail that another veterinarian could take over the management of the case at any time;
  - b. Be retained for periods of time as required by statute or for the duration of time for which they remain relevant to the purpose for which they were recorded;
  - c. Not be altered retrospectively unless the changes are marked chronologically on the record, and the additions are dated and noted as being added retrospectively; and
  - d. Be made accessible to clients on request, unless there are justifiable legal reasons to withhold.

### **Understanding Section 4**

- k. *In the interests of openness and transparency and in order to comply with the Privacy Act 1993, veterinarians must provide clients access to their animal's records on request, unless there are justifiable legal reasons not to. Where the practice incurs costs to duplicate records, those reasonable costs can be passed on to the client in order for them to obtain their copies.*



**Competency Standards and Performance Indicators for Veterinarians (the Competency Standards)**

**5. Obtain and record relevant information sufficient for analysis, diagnosis and retrieval**

Obtain by interview and examination a relevant, accurate and detailed history of animals presented and record this information logically, legibly and securely.

Carry out a thorough systematic physical and clinical examination of the animal presented

Where indicated, carry out or arrange such diagnostic tests and procedures (such as haematology, pathology, radiology and imaging) as are needed to make a diagnosis

Know when to investigate the environment in which the animals under investigation are kept

**Indicators:**

Records:

- show an adequate and accurate history
- contain an adequate record of the physical and clinical examination
- are legible, time bound and retrievable
- are treated as confidential to the owner or agent and are not divulged to others without consent, unless there is a legal obligation to do so
- contain results of diagnostic tests and procedures as appropriate to diagnose and manage the individual case
- appropriate radiographs or images taken of adequate diagnostic quality
- contain detail, where indicated, on the environment in which the animals under investigation are kept
- contain evidence of adopted treatment strategies
- retain evidence of consent to the treatment plan strategies.
- should be of such detail that another veterinarian could take over the management of the case at any time

**3 Analyse information to enable accurate diagnosis and develop appropriate treatment strategies**

Assess the history, physical and clinical examination outcomes and diagnostic tests.

Evaluate the effect of the environment in which the animals are kept, if indicated.

Identify problems and their causes.

Develop a diagnosis or diagnostic hypothesis.

Identify contra-indications and consequences of intervention

Develop appropriate evidence based strategies for dealing effectively with commonly diagnosed conditions and diseases.

Fully inform the client of treatment options, likely outcomes, risks and costs and obtain their informed consent to proceed with treatment or undertake post mortems.

Recognise personal limitations in dealing with unfamiliar, complicated or technically difficult cases and seek further advice and assistance, or refer such cases to others.

**Indicators:**

Demonstrates and records:

- adequate analysis of information collected
- accurate diagnosis
- adequate, evidence based treatment strategies, including the appropriate use of veterinary medicines
- client's informed consent
- advice sought from other veterinarians, where appropriate

**5 Implement safe and effective veterinary procedures and therapeutic strategies**

**Indicators:**

- Approaches, handles and restrains animals in an effective, safe, humane and ethical way which is appropriate to the circumstances
- Reaches sound conclusions following routine post mortem examination of common domestic animals
- Carries out therapeutic procedures on animals to maximise the likelihood of a satisfactory outcome and minimise the risks of untoward effects for the animals themselves and public health and safety, food safety and quality
- Demonstrates appropriate and responsible use of veterinary medicines
- Records and monitors therapeutic procedures
- Follows up therapeutic responses and modifies approach where appropriate
- Recognises and records requirements for analgesia and/or anaesthesia
- Safely induces, maintains and monitors analgesia and anaesthesia and takes steps to ensure safe and humane recovery
- Carries out surgical procedures using appropriate techniques and procedures before, during and after surgery that minimise the risk to the animal and maximise the likelihood of a successful outcome
- Undertakes accurate pre-operative assessment, uses correct techniques to minimise trauma and gives adequate post operative instructions and follow up care
- Deals effectively with the immediate emergency needs of animals and ensures the relief of pain and suffering
- Evaluates the need for euthanasia and when required carries it out safely and humanely, with the informed consent of the owner (where known) and using procedures appropriate for the species concerned and the circumstances

**7 Communicate effectively**

**Indicators:**

Demonstrates:

- effective oral and written communication skills
- an understanding of verbal and non verbal means of communication and cultural differences
- good listening skills
- avoidance of jargon
- effective conflict management techniques

With clients demonstrates:

- rapport, sensitivity, empathy, courtesy and respect
- clear and accurate explanations of findings, treatment options and likely outcomes in easily understood language
- client's understanding of the information provided is confirmed
- the need for sensitivity and support for grieving clients in situations of euthanasia.