

DECISION AND SECTION 43 STATEMENT TO THE VETERINARY COUNCIL BY THE COMPLAINTS ASSESSMENT COMMITTEE: CAC16-22

Dr A

Section 39 referral

Dr A	Veterinarian complained about
B	Clinic where Dr A works
Dr C	Dr A's colleague at B
Ms D	Complainant
E	Ms D's dog
F	Clinic where Ms D took E initially

Summary

1. A Complaints Assessment Committee (CAC) of the Veterinary Council of New Zealand (VCNZ) has investigated a referral made under section 39 of the Veterinarians Act 2005 (the Act). The CAC has reached a decision as set out below.

Background

2. Dr A is a director and veterinarian at B. Ms D raised concerns with VCNZ about Dr A in August 2016.
3. A veterinarian at B, Dr C, was asked to provide a second opinion on a diagnosis of Ms D's dog, E. Ms D raised concerns about Dr C's handling of that matter both with the clinic and VCNZ.
4. Dr A and Dr C visited Ms D at her home on 3 August 2016 to try to resolve the matter. Ms D feels that it was rude and unprofessional of them to visit her without warning. She also raised concerns that Dr A would not leave when he was told it was an inconvenient time and that his behaviour towards her was unprofessional and, at times, aggressive.
5. This matter was initially considered by VCNZ's Notification Review Group which referred the matter to the CAC to investigate under section 40 of the Act.

Information considered

6. The CAC considered the following information.
 - a) Notification form from Ms D dated 9 August 2016
 - b) Email correspondence from Ms D during July and August 2016 setting out her interactions with the clinic and detailing her concerns
 - c) A letter from Dr Stuart Burrough, NRG Chair, referring Ms D's concerns to the CAC to investigate
 - d) A letter from Dr A dated 18 September 2016 responding to Ms D's notification
 - e) A letter from Dr C (undated) that included her account of the meeting with Ms D at her house
 - f) An email from Ms D dated 7 November 2016 commenting on Dr A's response.

Brief case summary

7. In September 2015 E was diagnosed with scoliosis at another clinic (F). On 16 September 2015 Ms D asked the clinic to provide a second opinion for E's back pain and was told that Dr C of B was the best person to do this.
8. On 25 or 26 September 2015, Ms D spoke with Dr C and asked her if she had received radiographs from F. Dr C told her she had seen them. Dr C advised Ms D that E had arthritis and that that it was not necessary to have him on permanent pain relief. Ms D considered that the original diagnosis was much more alarming and she was happy to hear things weren't as serious as first thought.
9. On 28 September 2015, Ms D called Dr C to look at a horse. While there, Dr C was shown E and confirmed her diagnosis of arthritis. No examination was carried out on E, who was observed to be running around pain free. Based on her communication with Dr C, Ms D discontinued E's medication once the current course finished.
10. In March 2016, Ms D took E to B due to back pain. Ms D told the treating veterinarian that there were already radiographs of E's back available but the veterinarian could not find any record of them. The veterinarian took further radiographs and Ms D said that she gave a diagnosis that matched the original diagnosis from F. Ms D was told by staff at B that there was no record of them ever receiving the radiographs and that they did not have the facilities to open digital radiographs. She then suspected that the radiographs had never, in fact, been received in viewable form and that Dr C had lied to her.
11. Ms D raised her concerns about Dr C's conduct with VCNZ and was in correspondence with the clinic about her concerns. She was clear with the clinic that she planned to take the matter to the Disputes Tribunal on the 5th August.
12. On 3 August 2016 Dr C and Dr A arrived at Ms D's home. She told them that this was an inconvenient time but reported that Dr A was "*obviously angry and insisted that they come inside*". Ms D stated that Dr A was quite aggressive and demanded that she "*drop the case*". Ms D was left feeling shaken and upset.
13. During the meeting, Dr C showed Ms D the radiographs of E from September 2015 on her phone, resolving to Ms D's satisfaction her concerns that Dr C might have made a diagnosis without having seen them.

Issues raised in the complaint

14. The issues raised concerning Dr A are that he:
 - a) attended Ms D's home without advance warning
 - b) would not leave Ms D's home when told that she was busy
 - c) was unprofessional and aggressive toward Ms D.

Dr A's response

15. Dr A provided a written response to the NRG and this was also considered by the CAC.
16. Dr A said that an email was sent to Ms D on 23 June 2016 which included an apology for any delays and advice that the matter would be discussed with Dr C. He stated that at no time did Ms D contact Dr C directly to discuss her concerns and that the whole matter related to an assumption made by Ms D about Dr C's access to the radiographs.

17. On 3 August 2016 Dr C informed Dr A that she had located the radiographs sent from F on her phone. As time was short, because Ms D planned to file a Disputes Tribunal claim on 5 August 2016, Dr A thought it prudent to communicate directly with Ms D about this as soon as possible.
18. Dr A and Dr C visited Ms D on 3 August 2016 to explain the situation and “*hopefully allay her concern.*” Dr A stated that, when they arrived, Ms D did indicate she had an appointment and that the timing of their visit was inconvenient but he suggested that the matter needed to be discussed as soon as possible and Ms D invited them into her kitchen. Dr C showed Ms D the radiographs and Ms D accepted these as genuine. Dr A suggested an apology to Dr C was appropriate but this did not happen. Dr A said that, despite having indicated she needed to get to her appointment, Ms D fully engaged in the discussion.
19. Dr A denied being threatening towards Ms D and said the visit ended with her indicating that she would review her options.

The Code of Professional Conduct for Veterinarians

20. 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**.
21. 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

22. The CAC recognises that up until this concern, Ms D had “*a world of respect*” for Dr A and the CAC did not see any evidence to suggest any previous inappropriate professional conduct by Dr A.
23. The meeting between Drs A and C with Ms D at her home was unannounced. Holding unscheduled and unannounced meetings with clients is not ideal and is not recommended. However the CAC considered this in the context of:
 - a) the urgency the veterinarians assigned to dealing with the matter before the referral to the Disputes Tribunal that Ms D had mentioned
 - b) failed attempts by Drs A and C to schedule a meeting with Ms D
 - c) Dr A’s apparent view that the misunderstanding about Dr C not having seen the radiographs could be quickly resolved with a face-to-face meeting.
24. Dr C was also present at the meeting with Dr A and Ms D. Dr C stated that when they arrived at her house Ms D invited them inside. At no time, she said, was the conversation threatening or intimidating.
25. The meeting was conducted in Ms D’s kitchen after she asked them to take a seat. Both Drs A and C have stated that they were invited inside.
26. The meeting was ended when Ms D stated that she had a prior engagement to prepare for, and Drs A and C left.

27. The CAC considered the radiographs taken of E which were not held on the clinic's files, but eventually produced on Dr C's smart phone. While this does not reach the threshold for any further statutory action, it is expected that material used in forming a second opinion is noted in the clinic's record keeping system.
28. The CAC also noted that the delayed communication between Ms D, the practice manager and Dr C, combined to frustrate Ms D to the point she complained to the VCNZ. This situation may have been avoided had there been better communication within the clinic and with Ms D.

Decision

29. The CAC considers that this case can be closed and no further action¹ needs to be taken.

Reasons

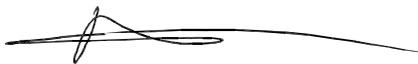
30. The reasons for the CAC's decision are that, had Dr A acted in a threatening and intimidating way toward Ms D, this would have raised a concern about his professional conduct. However, in the absence of sufficient evidence to support the allegations, and relying on the submission of Dr C who was also present at the meeting, no further action will be taken.

CAC suggestions

31. That, in accepting material to inform a second opinion, B should store this information in the clinic's record keeping system.
32. That in his position as a director of B, Dr A ensures there are improved channels of communication between practice management and staff in dealing with client concerns.
33. That meetings with clients should be with the consent of the client, documented in that client's file and arranged in advance.

Learnings for the profession

While the veterinarian's efforts in this case to speak with an unhappy client and resolve her concerns were positive, it is seldom appropriate to attend a client's home unannounced. The Code of Professional Conduct states that '*Veterinarians must interact in a way with clients that promotes effective communication and trust.*' Veterinarians should be aware of their clients' viewpoints when communicating with them and avoid putting them in a position where they feel uncomfortable or confronted.



Dr Philip Watson
Chair
Complaints Assessment Committee

6 January 2017

Date

¹ Pursuant to s43(1)(f) of the Act

Appendix 1: Code of Professional Conduct for Veterinarians (the Code)

Client relationships

Veterinarians must practise 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*

Appendix 2: Competency Standards and Performance Indicators for Veterinarians (the Competency Standards)

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
- effective conflict management techniques

With clients demonstrates:

- rapport, sensitivity, empathy, courtesy and respect