

DECISION AND SECTION 43 STATEMENT TO THE VETERINARY COUNCIL BY THE COMPLAINTS ASSESSMENT COMMITTEE: CAC16-23

Dr C

Section 39 referral

Dr A	Director and vet at B
B	Clinic where Drs A and C work
Dr C	Veterinarian complained about
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 C is a veterinarian at B. Ms D raised concerns with VCNZ about Dr C in August 2016.
3. Dr C was asked to provide a second opinion on a diagnosis of Ms D's dog, E. In doing so, she had to access electronic radiographs sent to the clinic by F. Ms D raised a concern that Dr C may have given a second opinion without having seen those radiographs and that she lied to Ms D by telling her she had seen them. Although this was subsequently found to be incorrect, Ms D remained concerned that Dr C's diagnosis might have been incorrect and that it took Dr C too long to respond to her concerns.
4. Dr C and Dr A, a veterinarian and director B, 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 they would not leave when told it was an inconvenient time.
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) An undated letter from Dr C responding to the concerns raised by Ms D.
- e) Clinical notes for E, provided by Dr C.
- f) Email correspondence between F and Dr C, in September 2015, supplying the radiographs.
- g) Copies of the radiographs.
- h) An email from Ms D dated 7 November 2016 commenting on Dr C's response.
- i) An email from Dr C dated 6 December 2016, confirming that she did not make any clinical notes of the limited examination she carried out on E.

Brief case summary

- 7. In September 2015 E was diagnosed with scoliosis at 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 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 x-rays from F. Dr C told her that she had seen them. Ms D said that Dr C told her that E had arthritis and 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, she observed E from a distance running around normally, and confirmed her diagnosis of arthritis. Based on her communication with Dr C, Ms D stated that she discontinued E's medication once the current course provided by F finished.
- 10. On 1 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 gave a diagnosis that matched the original diagnosis from F. Ms D was told by staff at the clinic 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 about seeing them.
- 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.
- 12. On 3 August 2016 Dr C and Dr A arrived at Ms D's home. She said that she told them this was an inconvenient time but they insisted that they go inside.
- 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 the radiographs.

Issues raised in the complaint

- 14. After being shown the radiographs on Dr C's phone, Ms D withdrew that aspect of her complaint. The remaining issues raised concerning Dr C are that she:
 - a) gave an incorrect diagnosis of E's condition
 - b) took too long to respond to Ms D's concerns about whether she had seen the radiographs
 - c) attended Ms D's home without warning

d) would not leave Ms D's home when told that she was busy.

Dr C's response

15. Dr C provided a written response to the NRG and this was also considered by the CAC.
16. Dr C said that she initially received an email attaching the radiographs on 16 September 2015 but she could not open them. She asked for the images to be sent in another format and received them on 21 September 2015. She said that she looked at the radiographs on her phone when she was on Ms D's farm on 28 September 2015 to examine a horse and she discussed the radiographic findings with Ms D.
17. Dr C said that she confirmed the diagnosis in layman's terms of arthritis of the lower spine/sacroiliac region. She reported that the dog was very active and she did not undertake a clinical examination. Dr C said that she explained to Ms D, among other things, that they did not know at that stage whether E would require non-steroidal anti-inflammatories for a short course only or intermittently throughout his life or whether he would do well on them at all. She said that she explained that Ms D was the best person to judge E's comfort level. Dr C said that Ms D seemed happier about the diagnosis that E had been given at F.
18. Dr C reported that, at the 1 March 2016 visit to the clinic, further radiographs were taken which revealed spondylosis around the sacroiliac region and E was diagnosed with bilateral partial cranial cruciate ligament disease, a new clinical finding.
19. When Dr C returned from annual leave in June 2016, she was asked by staff at the clinic if she had the radiographs but relayed that this was unlikely due to several changes to the clinic's computer system since then.
20. On 1 August 2016, Dr C says she learned of Ms D's concerns from Dr A and that she found the radiographs on her phone that evening. She discussed this the following day with Dr A and they agreed to visit Ms D.
21. Dr C says that, when they went to Ms D's home, she invited them inside. She mentioned she had an appointment that she had to go to shortly but asked them to sit at the table. After Dr C explained the situation and showed Ms D the radiographs, she says that Ms D accepted that she had viewed the radiographs before making her diagnosis.

The Code of Professional Conduct for Veterinarians

22. 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**.
23. 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

24. The CAC has viewed the radiographs in question, and is satisfied with Dr C's diagnosis. The CAC does not believe there is a competency issue to answer.

25. The CAC considers Dr C's treatment advice for E's condition agrees with that generally accepted by the profession.
26. The delay in communication between Ms D and Dr C is outside of Dr C's control.
27. There is no allegation of any unprofessional behaviour exhibited by Dr C during the meeting at Ms D's house.

Decision

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

Reasons

29. The reasons for the CAC's decision are:
 - a) The radiographs in question reveal that there is a degenerative lesion in the area of the lumbosacral vertebrae on E's spine (Spondylosis). It is noted by the CAC that this can be associated with discomfort, but can also be found as an incidental finding in an asymptomatic dog. The term "arthritis" is a term describing inflammation of a joint, and includes a range of lesions including the spondylosis in question in this case.
 - b) The CAC agrees with Dr C's advice for the management of this case, in that non-steroidal anti-inflammatory drugs (NSAIDs) are an appropriate treatment for this disease. The ongoing need for this medication is best decided by how the patient responds to its use, and if there is any relapse in clinical signs such as pain and discomfort when the use of the medication is withdrawn. If there is no pain or discomfort noted after medication withdrawal, there is no indication for unnecessary long term use (exposing a patient to possible unintended side effects associated with a medicine), and short term courses to manage any possible future flare ups would be acceptable. It is noted by the CAC that a significant time frame from September through to the following March in which E was not medicated on permanent NSAIDs and did not reportedly exhibit any discomfort during this period.
 - c) The CAC considers the delay in communication between Ms D and Dr C was outside of Dr C's control, and there is no case to answer.
 - d) The CAC feels that it is inappropriate for a veterinarian to turn up to discuss client concerns unannounced but considers that this minor deficiency on the part of Dr C does not breach the threshold for further action. The CAC did not find any evidence of unprofessional behaviour displayed by Dr C.

CAC suggestions

30. That Dr C refresh her understanding of the Code of Professional Conduct, Veterinary Services, section 4 on recording clinical notes and reminds her that she is expected to record her findings and advice given in a patients' clinical notes, even if this is for a second opinion. This includes reading radiographs.

¹ Pursuant to s43(1)(f) of the Act

31. That Dr C ensures that meetings to resolve client concerns are held at a time and place agreed by all parties concerned.

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.

The Code states that '*Veterinarians must maintain clear and accurate clinical records.*' Where veterinarians provide a professional opinion, including a second opinion, records should be made, regardless of how short the consultation was.



6 January 2017

Dr Philip Watson
Chair
Complaints Assessment Committee

Date

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*

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.*

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