



VETERINARY COUNCIL

OF NEW ZEALAND

Te Kaunihera Rata Kararehe o Aotearoa

NEWSBRIEF



November 2004

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Administrative fee changes

The Council has removed the fees for adding qualifications to the Register, and for making a change to a surname on the Register (\$22.50 in each case). However, veterinarians will still have to provide certified copies of their qualifications and name change documents.

The fee for providing a letter of good standing for veterinarians seeking registration overseas has been amended to \$25.00. Previously there were two fees (\$33.75 for faxing and \$22.50 for posting), the difference being more relevant when overseas call charges were higher. The flat fee allows for the letter to be both faxed and posted.

ARC fees will remain at current levels for the 2005-06 practising year.

Changes to Council & Committees

Three nominations were received for the three elected positions by the closing date of 1st October and so no poll voting was required. The Returning Officer (Philip Ross JP) declared Ronald Gibson and Julie Wagner re-elected to the Council, and Grahame Joyce elected to the position left vacant by Nigel Coddington (effective 1 January 2005). Other members of the Council are Jim Edwards (Ministerial veterinary appointee), Peg Loague and Gordon McIvor (Ministerial lay appointees) and Norm Williamson (representing the Dean of the Faculty of Veterinary Science at Massey University).



Grahame Joyce graduated from Sydney in 1959, starting work in a Manawatu dairy practice. He later moved to Wairoa, and spent 37 years at Taihape Veterinary Clinic, as a veterinarian and practice owner, working mainly with sheep, beef and deer. He now works as a locum whilst maintaining his lifestyle block in Matakana. Grahame was previously a member of the Veterinary Surgeons Board. He has been an active member of his local NZVA branch and of special

interest branches. Grahame will replace Nigel Coddington as the Council member on the Complaints Assessment Committee. Nick Twyford has been appointed Chairperson of the Complaints Assessment Committee. The other member of that Committee is the lay member, Mary Mountier.

Allen Bryce, Chairperson of the Registration Committee, has moved back to Australia to take up the position of Senior Principal Research Scientist with the Office of the Chief Veterinary Officer in Canberra. Allen had brought to the Registration Committee a wealth of knowledge and experience, having been head of the Northern Territory Veterinary Surgeons Board for eight years and a founding member of the Australasian Veterinary Boards Council. Moving to Australia with Allen is his partner, Niki Francis, who was the Secretary for the Veterinary Council of NZ from 1997-2000 and interim Secretary in 2002. The Council will make a decision on the Chairpersonship of the Registration Committee early in 2005.



Veterinarians Bill to be introduced shortly

The Veterinarians Bill should be introduced to Parliament before Christmas, and then veterinarians and other interested parties will have the opportunity to make submissions to the Primary Production Select Committee. The Bill still needs a lot of work before it can reliably serve the public and the

profession, but it does allow the Council to set minimum standards for ongoing registration, provide for limited registration (two years only) and require competency assessment of veterinarians whose skills and knowledge may have fallen below the minimum standards.

Complaints Report

By 26 November, 44 complaints had been received in the 2004 year. In fact the CAC dealt with 61 cases up until November, including 17 from the previous year. Of the 44 received in 2004, 30 were from clients, 8 from other veterinarians, and the remainder arose from information provided to the Secretary. Ten complaints were either judged frivolous, or did not meet the criteria for investigation. All but five of the remaining

complaints have been completed. Five have been referred to the Judicial Committee, one for the diversion noted below, the other four to full Judicial hearings. All members of the CAC are of the opinion that, in their experience, some of the complaints addressed this year have been the most complicated and potentially serious complaints they have been asked to investigate.

Judicial Report—Diversion

A veterinarian took responsibility for the care and treatment of a horse belonging to the complainant. The veterinarian was retained to treat apparent colic, presented as the horse being in distress: sweating, rolling, agitated and generally showing signs of severe discomfort. The veterinarian's conduct when taking responsibility for diagnosing and treating the horse for the presenting symptoms, and their subsequent management of this case fell below the standards expected of a veterinarian and breached a number of provisions of the Code of Professional Conduct, particularly in respect of personal conduct. The veterinarian kicked the horse when it was showing signs of severe discomfort. The veterinarian also swore foully at the horse in the presence of the owner. The veterinarian did not apologise to the complainant in a timely, nor in a sincere manner.

The veterinarian did not recognise the seriousness of the situation. A rectal examination was not performed, despite all the symptoms pointing to a severe colic, and the high possibility of an abdominal accident. Safety was an issue, however, a veterinarian more experienced in equine medicine was not immediately called to take over the case. Another veterinarian was eventually called and the horse was immediately euthanased.

The Complaints Assessment Committee considered that the matters outlined above warranted the laying of charges of professional misconduct. However,

the Committee also considered that the case was one where diversion was an appropriate way of dealing with the veterinarian's shortcomings, and a Judicial Committee of the Council agreed with this recommendation. Diversion is where the veterinarian admits that they have breached the Code and agrees to a set of terms to remedy those breaches. In this instance the terms included a sincere apology to the complainant, counselling to moderate behaviour, review of management of equine cases, allowing the CAC to audit records, case management and behaviour within six months, and contribution of 50% of the CAC investigation expenses. When the terms of the diversion agreement have been fulfilled, the CAC will recommend that the charges against the veterinarian be withdrawn.

The benefits of diversion, in terms of the public interest, is that it ensures that the veterinarian acknowledges their shortcomings and agrees to a rehabilitative process designed to remedy the shortcomings, rather than being required to do so should they be found guilty following a full disciplinary hearing. Conduct which is of a more serious nature would not be considered for diversion. The benefit of diversion to the veterinarian is that they can remedy their shortcomings without facing judicial action, and with the eventual dropping of charges if they successfully complete the terms of the agreement.

USE YOUR CODE · KNOW YOUR CODE · READ YOUR CODE · REFER TO YOUR CODE

The Code of Professional Conduct provides peer defined principles and guidelines for veterinarian performance. It is the Council's official interpretation of its expectations of the actions of competent and reasonable veterinarians in various given circumstances. Those who comply with the Code can be reasonably confident both of not breaching the Veterinarians Act, and of remaining in good standing with the public and with their peers.

Nigel Coddington reflects

Nigel Coddington was elected to the Veterinary Council in 2001 and has been Chairperson of the Complaints Assessment Committee since early 2002. The Council and the CAC have benefitted enormously from his dedication, intellect and wisdom. Nigel has been asked to reflect on the complaints processes of the Council.



During my three years on the Complaints Assessment Committee, a number of trends and commonalities emerged in the majority of complaints that came before this committee. I personally learnt a lot, and recommend all veterinarians to take a turn on this committee for the learning experience alone!

The Process

There is clearly a lack of understanding of the role of the CAC on the part of some veterinarians and complainants, who see the CAC's role as one of establishing guilt. This is not so. The CAC investigates complaints to see if there is enough evidence of non-compliance with the Code of Professional Conduct for Veterinarians to require a veterinarian to be charged with professional misconduct. If the CAC considers there is sufficient substance to the complaint for the matter to be looked into formally, then it forwards the complaint to the Veterinary Council for judicial consideration.

It is the Judicial Committee of the Council that makes any decisions on whether there is professional misconduct or not; and what penalties should apply. If a complaint is forwarded to a Judicial Committee, the CAC (through its lawyer) acts as the prosecutor; the veterinarian is represented by his or her own Counsel in defence of the charges; and the Judicial Committee acts as judge and jury – they also have their legal representative and can cross examine all witnesses called to the case. The rules of natural justice must be observed in all proceedings under this part of the Act by both the Council and the CAC.

In practice, very few complaints are forwarded to the Council for judicial consideration (2001 – one; 2002 – one; 2003 – one; 2004 – five). Some that are forwarded are recommended by the CAC to be dealt with by way of diversion. This requires the veterinarian to admit to the misconduct, and then fulfil a number of conditions, which, being done satisfactorily, will result in the charges being dropped. Diversion is used when rehabilitation is a better option than prosecution.

Both the Council and the CAC are bound by a process prescribed in the Veterinarians Act as to how to investigate and prosecute a complaint. When the complaint is forwarded by the Secretary to the CAC, the Committee initially establishes a) whether they have a conflict of interest or whether they will sit on the committee; b) whether they think the complaint is frivolous or vexatious; and c) whether the complaint requires investigation. Some complaints are either not related to the Veterinarians Act (e.g. those relating only to the level of fees charged) or can be dealt with by providing advice.

If the complaint is to be investigated, both veterinarian and complainant are informed of the process and the composition of the CAC (to which either party can object). The veterinarian is given a copy of the complaint and invited to respond. The complainant is then sent the veterinarian's response and can respond to that. There are set time periods to allow time for this correspondence. Once that part of the process is complete, the CAC meets to consider the complaint. There are several possible outcomes:

1. The CAC may wish to gather further information – by letter; by telephone; or by face to face interview – usually at the vet's clinic, especially if clinic records or protocols or facilities are in question. They may also want to gather further information from others who may have relevant details to contribute – from legal opinions to others mentioned in the complaint.
2. The complaint may be referred to another body more appropriate to the complaint – eg Disputes Tribunal (the CAC does not consider fee complaints unless there is an element of communication as an issue), or the ACVM group.
3. The CAC may deem it appropriate that mediation or conciliation be attempted to resolve the complaint – and usually employs an outside trained person to attempt this. This requires both parties acceptance of this approach to proceed.

4. The CAC may decide that the complaint doesn't constitute professional misconduct and so it closes the case, writing to both parties advising them of the decision. Often, there are elements within the complaint that, while not reaching the criteria for a charge of professional misconduct, do raise concerns within the CAC regarding professional standards or conduct. In these cases, the CAC usually tries to offer constructive criticism to the veterinarian to help them improve and avoid a similar situation. The letter to the complainant will include these recommendations to the veterinarian. The complainant can appeal the process and the substantive decision of the CAC to the Veterinary Council.
5. The CAC may decide that the complaint warrants the consideration of the Veterinary Council, and forwards it on to the Council as described above.

Common Issues in Complaints

- Lack of effective communication is a major issue, and the root cause of many complaints. Often clients are under considerable stress when being spoken to by veterinarians – and under such circumstances may retain less than 10% of what is said. I strongly recommend that veterinarians document everything, including what is said to the client, such as pre-warning of possible outcomes, as well as post treatment communications. I cannot stress enough how important it is to record everything – not just diagnosis, treatment, and case management plan; but also all communications – including the phone call

updates that many nurses do for vets.

- Lack of empathy with the client. We have all experienced the angry client; some of us have experienced the client that, no matter what is done, will never be satisfied. In all cases, showing genuine empathy does help. In the great majority of cases, it avoids a complaint going further, and in many cases turns an angry client into an extremely loyal client. There is no admittance of fault in saying "I'm so sorry this has happened", or "If I was in your shoes, I'd feel like that too".
- Lack of explanation of what has happened. At least 7 of the 44 complaints dealt with till Nov. would not have eventuated had the veterinarian given a clear explanation to the complainant.
- Not delivering on promises, and not replying promptly to queries. Many cases involve an element of client's expectations not being met. We see letters written by the complainants to the veterinary practices concerned asking for an explanation which have not been responded to. If the veterinarian had responded as they do to the CAC, the complaint might never have reached the committee!

Finally, it is heartening to note that few complaints are in fact the result of poor technical ability. The majority of our veterinarians are highly skilled. It is also worth pointing out that few complaints involve junior vets, which suggests there is a good standard of supervision and support out there for the next generation of veterinarians.

Dr Nigel Coddington BVSc
Chairperson, Complaints Assessment Committee

Disease free statements by veterinarians are unlawful

Biosecurity New Zealand has advised instances of veterinarians making "NZ is rabies free" declarations on their practice letterhead for the export of animals overseas. Veterinarians in practice are not legally able to do this. Such a statement forms an official assurance about the disease status of NZ, which only the Director General of MAF or someone authorised by him can provide. Veterinarians are only required to provide a veterinary certificate of health stating that the animal is fit to travel. Their certificates must include their name and qualifications typed or printed beneath their signatures.

Surgical procedures by non-veterinarians

A number of excellent submissions on this topic have been received, including submissions from all of the NZVA Special Interest branches.

The Council has decided to facilitate another meeting of the stakeholder liaison group before preparing any recommendations for the Minister of Agriculture.

*Merry Christmas
from the Council members, Committee members and staff
of the Veterinary Council of New Zealand.*