



VETERINARY COUNCIL

OF NEW ZEALAND

Te Kaunihera Rata Kararehe o Aotearoa

## Newsbrief *(special)*

March 2005

### Veterinarians Bill under consultation

The Veterinarians Bill has had its first reading in Parliament and has now been sent to the Primary Production Select Committee. This Committee has called for written submissions, the deadline being 21 March 2005. The Primary Production Committee will then also accept oral submissions and

will provide the Bill for its second reading by June 2005. Not long after that the Bill should become law, which will mean it will come into effect in 2006. The purpose of this Newsbrief is to inform veterinarians and others about the Bill and encourage them to participate in the consultation process.

#### Why is change necessary?

- a. The Council sees a need for it to have the ability to assess the competency of a veterinarian.
- b. The Council needs flexibility in terms of accepting people for registration in New Zealand, and in deciding the type of registration they will work under.
- c. The Council seeks a greater measure of self-regulation, so that what in the past had to be done through the Government setting regulation can be done by the Council itself setting rules by notification in the New Zealand Gazette.
- d. The Council wants to see legislation regulating the veterinary profession being comparable with that for other comparable professions in New Zealand.
- e. The Council sees benefit in more clearly separating its Judicial function from other aspects of its Council's work, and providing for more options for response in the complaints process.

#### Self-Regulation

In line with other similar organisations, the Council seeks a greater measure of self-regulation, so that what in the past had to be done through the Government setting regulation can be done by the Council itself setting rules by notification in the New Zealand Gazette. These will include fee

setting, the ability to prescribe the minimum standards for registration and ongoing registration—this would include things such as fitness to practise statements and possibly required continuing education if that was seen to be a particular issue needing attention. The Council also will be able to prescribe application forms and the form of the Register.

## Flexibility in Registration

The Council will be able to offer limited registration, under conditions, to individuals whose qualifications don't meet the recognised standards but whose skill sets are needed in specific areas. It is most likely that those individuals would be employed in sectors such as teaching and research and in areas of specific need. This category would also be used to deal with an emergency disease outbreak, where it might be necessary to bring in veterinarians for a short time whose primary degrees are not immediately recognised but whose expertise or experience is valuable.

The power to be flexible in particular circumstances exists in the HPCA Act, and, for the veterinary profession, in most states of Australia where it can be used for those who are sitting the National Veterinary Examination. The need for more flexibility in this area was one of the main reasons that the Council began seeking changes to its legislation six years ago. However the Council recognises that there are questions with this type of registration, such as:

- a. Limited registration would generally include conditions on the scope of practice that could be undertaken. A big question is should there be any limit on the time period that the Council can apply to this type of registration—one year, two, indefinitely? The disadvantage of having a restricted time period is that it would make it difficult
- b. If it was open-ended could the category be used to deal with 'tracking' – a feature of some overseas veterinary schools like Utrecht where students focus their training in just one species or area (large animal, companion animal, pathology etc) from the second or third year of training. Could it be used to regulate a possible future scenario of veterinary practice in New Zealand, where veterinarians work only with their scope of practice (as occurs in human medical practice).
- c. Once limited registration is available as an option there is the potential for others whose skills may not be sufficient, nevertheless to apply for this type of registration. The Council will have to carefully establish, maintain and review how it decides who is eligible for limited registration and who is not, to ensure that its decisions are defensible.

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### What is a Registered Veterinarian?

There has been much discussion during the drafting of the Bill of what constitutes a veterinarian and what entitles a person to be on the Register. The Council prefers the HPCA model and that existing in many other professions where the Register exists

only from year to year, and veterinarians renew their right to remain on the Register via their practising certificate, dropping off the Register if they do not hold a practising certificate. This means that only those who stay on the Register are entitled to use the term veterinarian. This could include a group who wish to remain 'non practising'

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on the Register. The drafting of the Veterinarians Bill has resulted in the dropping of this category, which the Council is keen to retain. The Council currently offers a 'non-practising' category, where for a modest fee veterinarians can retain their name on the published form of the Register and continue to receive information from the Council. It is particularly useful for keeping in touch with those veterinarians working overseas, and has considerable public benefit, particularly in times of veterinary shortage and in possible emergency outbreak situations.

## Entry degree requirement

The current Act requires a five-year veterinary degree for those seeking registration in New Zealand. This will be dropped to four years, so that NZ aligns with Australian policy. However, this will not result in a lowering of standards, as New Zealand and Australian policy ensures that only satisfactorily accredited veterinary degree programmes are acceptable for registration purposes. The change will allow people with four year degrees to attempt the New Zealand National Veterinary examination.

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## Competence

The Bill allows the Council to require a competency assessment of a veterinarian to ensure that the veterinarian is meeting the minimum standards for continuing practice. This would usually be undertaken on the suggestion of the Complaints Assessment Committee, but could potentially be undertaken on a random basis, as under the Health Practitioners Competency Assurance Act. The assessment would be undertaken at the Council's cost. The Council can take a number of actions following the report – retraining and up-skilling being the primary focus. It may be that conditions are required and in very serious cases, suspension could be required. Any retraining or up-skilling that was needed would be undertaken by the veterinarian at their cost.

Currently the only way of responding to veterinarians who may no longer be meeting the minimum standards required in the area of practice that they work in, is the complaints and judicial process. This is not sufficient to manage situations where there is some reason to suppose that the person's competencies have dropped, even though

charges might not be laid by the CAC against the person.

The Council needs more power to provide for a rehabilitative process that could be an adjunct to a judicial response.

The wording for competency assessment in the Bill is not satisfactory to the Council, as it tries to link competency assessment too closely to the procedure for a medical assessment following reports of medical disability. The Council believes these are quite different activities and so is seeking for competence assessment to be set out separately, with similar wording to that in the HPCA Act.

Any power such as this needs checks and balances – the Bill allows a veterinarian to comment on the process before it happens, and comment and be heard by the Council regarding the report after the assessment has occurred. Conditions and suspension can be appealed against, to the Council and to the courts.

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## Complaints and Discipline

There are several changes proposed in this area. The first is that the Judicial Committee will have a different structure that will more clearly separate it from the Council itself. It is possible that this could be differentiated even further through the establishment of a Veterinary Disciplinary Tribunal (c.f. the Medical Disciplinary Tribunals of each health authority). In the Bill as drafted the Judicial Committee (or Tribunal) will comprise an experienced barrister/solicitor, a layperson, a member of the Council and a veterinarian who has experience in the area of the charges being laid. The only difference from the composition of the current Judicial Committee is the inclusion of the barrister/solicitor.

In the complaints area the complaints committee now has two more recommendations that it can make following its investigation - one is that a competency assessment be carried out, the second is that the person work under conditions (which is currently operating under the 'diversion' option and requires the agreement of the veterinarian and the Judicial Committee).

The Council is unhappy with the Appeals section of the Veterinarians Bill, which, as a result simply of drafting error, differs

significantly from that in the current legislation. The Council, in any case, is seeking the same wording as that available under the HPCA Act, i.e. that actions taken by the Council regarding a person's professional status and any conditions placed upon them can be challenged at the District Court level, and findings of professional misconduct and subsequent penalty set by the Judicial Committee (Tribunal) can be challenged at High Court level.

The Council has also asked for the inclusion in the Bill the right for the CAC to require documents (e.g. records, x-rays) to be provided to it if they are not initially provided on request. Again, this is a provision within the HPCA Act. The current CAC is sometimes (although rarely) hampered in its investigation when it is not able to view key documents because a veterinarian refuses to provide them.

It is also seeking the power to be able to suspend for a limited time the registration of a veterinarian where it has concerns about their ability to work safely and competently as a veterinarian and where a medical assessment or competency assessment is pending. It currently has the power to suspend pending a disciplinary hearing.

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### How can a submission be made?

The Veterinary Council encourages veterinarians and others to read the Bill and make submissions.

The first reading of the Bill occurred sooner than expected and the period allowed for submissions is comparatively brief. Written submissions must be received by 21 March 2004.

A copy of the Bill is available online at:

<http://www.knowledge-basket.co.nz/gpprint/docs/bills/20052461.txt>

Information about making a submission to the Primary Production Select Committee is available at: <http://www.clerk.parliament.govt.nz/Programme/Committees/>