



Professional misconduct found, suspension and conditions apply

At a hearing of the Judicial Committee of the Council held on 28th March this year, a veterinarian was suspended pending medical reports and the development of a three year programme of supervision. This followed charges of professional misconduct, to which the veterinarian pleaded guilty. The veterinarian's name and identifying details as well as medical evidence were suppressed.

Charges had been laid by the Complaints Assessment Committee (CAC) following its investigation of two complaints against the veterinarian made by clients following his treatment of their animals in October 2003 and January 2004 respectively.

In one situation, he had incorrectly diagnosed stifle joint disease in a dog suffering from stiffness. An unnecessary operation that followed resulted in significant complications with persistent joint infection that was not recognised and inadequately treated over the three weeks. The client sought a second opinion and later referral to Massey University.

The veterinarian told the client that a full written report would be provided but he failed to request this report. He failed to appreciate the necessity of bandage removal on the dog's leg. When questioned by the CAC, he led the committee to believe that he had changed his practice since the complaint so that he was now referring orthopaedic cases more regularly to Massey University and had regular contact with neighbouring clinics. This was not in fact as he described.

The other complaint followed treatment by the veterinarian of a horse that presented with chronic diarrhoea. He took two separate blood samples which either failed to arrive at the testing laboratory, or arrived too late to be reliably tested. Yet he advised the client that the first test had been 'muddled and bizarre', and used the insufficient information from the second test to diagnose serious renal disease. The third test that he took was interpretable and did not indicate a renal problem.

However he still led the client to believe that this was a cause of the horse's illness.

When questioned by the CAC regarding this complaint the veterinarian led the CAC to believe that he had instituted peer review and support mechanisms with a registered specialist veterinarian and with a senior experienced retired equine practitioner. However these claims were not corroborated by those individuals.

Both animals have since recovered, although the dog required a long period of treatment at Massey University.

In the case concerning the dog the Judicial Committee came to the view that the diagnosis and management of this case was probably professional misconduct by itself, and was certainly professional misconduct when coupled with the dishonest answers to the Complaints Assessment Committee both in his initial written response and his subsequent interview.

In the case of the horse the veterinarian was dishonest with the owner from the first blood test. This was exacerbated by his subsequent responses to the CAC.

For the veterinarian considerable emphasis was put on a medical condition from which he had suffered for some time (pre-dating the events giving rise to the charges) and how it might have affected his judgement and (particularly) the responses to the CAC. It was also submitted that for the veterinarian, notwithstanding his admissions including the summaries of facts he had agreed to, his actions were "accepted practice" or "reasonable" and that he had not so much been "dishonest" as "naïve and optimistic". The Judicial Committee was quite unable to accept such submissions.

Indeed those submissions suggested that the medical condition that the veterinarian suffered from was a continuing impediment to his ability to understand the substance of the complaints against him and his responsibilities as a member of the veterinary profession,

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Professional misconduct found, suspension and conditions apply (continued)

and may be an impediment to his ability to practise safely.

The Judicial Committee considered that the penalty should have two parts. The first is to assure the veterinarian's fitness to practise, and that there be some overview of his competency and clinical management decisions. The second part is a penalty to indicate that dishonesty in dealing with clients and with his professional regulatory body is unacceptable.

The veterinarian's registration was suspended from the date of the written decision. It was reinstated when he had provided reports from medical advisors as to his fitness to practise and an ongoing regime of appropriate medical treatment, and the development by the veterinarian of a programme of supervision for his clinical practice.

The reinstatement of his practising certificate was also dependent upon the condition that the Council receives regular reports from both his medical advisor and supervisor. This condition is in place for three years.

If the veterinarian is unable or unwilling to fulfil the requirements for medical reports and a supervisory programme, his name would be removed from the Register.

The veterinarian was fined a total of \$5,000 in respect of the complaints, and must pay 50% of the costs and expenses associated with the hearing, to a maximum level of \$6,000.

The Judicial Committee made an order prohibiting publication of medical evidence and of the veterinarian's name or details. Ron Gibson, Chair of the Judicial committee said that the Committee believed it had to balance public and private interests and at the same time encourage the veterinarian's rehabilitation as a member of his chosen profession.

This is the first hearing under the new Veterinarians Act 2005, which passed through Parliament in late December.

Health alert results in rehabilitation programme

In early May of this year a medical doctor advised the Registrar that a veterinarian under his care had admitted self-administering Fentanyl (on more than one occasion) by intravenous injection. In such cases the Council has powers under Section 55, and under the new Veterinarians Act under section 56 to place an interim suspension on the person's practising certificate and require a medical assessment. The veterinarian's practising certificate was suspended. A medical assessment was undertaken by a doctor skilled in drug and alcohol assessment, other medical information was supplied and the veterinarian was interviewed by members of the Health Committee and the Registrar.

In situations where a person's fitness to practise is being affected by a medical or physical condition the Council's aim is to support the rehabilitation of the veterinarian, although it also has a duty to protect the public interest by ensuring the veterinarian is competent (and safe) to practise. The veterinarian has been allowed to return to practise under a monitoring agreement which includes restrictions as to where the person can practise, ongoing counselling and medical assessment, working with a mentor and random urine screening. A practice protocol has also been put in place which requires a higher level of drug control at the veterinarian's clinic.

Where the person is afflicted by a medical disability,

such as a mental or physical affliction, the response has to be tailored to fit the situation, and the same applies to alcohol or drug abuse. To suspend a veterinarian without any further action would do little to assist them to address the underlying problems or addiction. That said, in cases of addiction, there is always a significant risk for a person when they are practising even under conditions because they are so close to the 'cookie jar'. It is not easy.

The Council advises clinics to ensure that they monitor the flow of drugs in the clinic and particularly abusable substances by maintaining a drugs register which is reconciled on a regular basis. The Misuse of Drugs Act 1975 requires locked storage for controlled drugs such as morphine, but there are clearly other abusable substances including amphetamines, opiates, barbiturates and anaesthetics that should be stored safely and monitored. All staff are at risk, particularly those who have easy access to the medication. Inappropriate drug use is a problem for many New Zealanders—current estimates suggest that there are around 15,000 injecting drug users in New Zealand (Nesdale et al 2000). Health workers are at particular risk mainly because they have easier access to abusable substances.

Alcohol is also an abusable substance and the most

easily accessible. A study undertaken in Christchurch in the mid 1980's found that almost one in five people will fit the criteria for alcohol abuse or dependence at some stage in their lives (Wells et al 1989). Problematic alcohol use also frequently co-exists with other mental health problems such as depression, anxiety disorders, anti-social personality disorders and bipolar disorder.

The effect of drug or alcohol addiction and the related stress on the individual, as well as on their colleagues and employers, clients, friends and family can be huge. There are often complex and difficult issues behind the choice of a person to cross the boundaries of their ethical responsibility and to compromise their personal health and well-being as well as their career. Veterinarians reading this article may well know of a veterinarian who is in trouble. It is understandable that people are reluctant to 'tell' on someone else, but the Council can do nothing if it does not know about the problem.

The type of monitoring programme being run by the Council in this instance was styled on that provided by the Medical Council, and also occurs in other professions. The Medical Council, for example, received 72 referrals of doctors during the year 1 July 2004—31 July 2005. Of these, 15 doctors were involved in a high support programme and 29 needed a lower level of support. The referrals related to drug and alcohol dependence, psychiatric problems and a wide range of physical disorders. In the human health field there is a legal requirement on people to notify if they think a person is not able to fulfil the requirements of practice. This is not the case in the veterinary profession.

Earlier this year Dianne Gardner (a psychologist with expertise in psychological well being at work and work place health and safety management) facilitated a review by members of the Health Committee and the Chairperson of the Complaints Assessment Committee of how the Council managed a situation during 2003 and 2004 where a veterinarian had taken abusable medicines, initially reported only as ketamine but later also other controlled drugs, anaesthetics and opiates. The veterinarian is (voluntarily) no longer practising in New Zealand but is undergoing treatment. The veterinarian's employer took part in the review process and this was very constructive.

The review also received advice from a doctor involved in drug and alcohol treatment. The main outcome has been improved knowledge by Council members about the signs and effects of drug and alcohol addiction and how to manage situations where a person has lost their way. Improved policy and procedure will follow. The review was timely, coming just before the case mentioned above.

The Vets in Stress programme is another way that veterinarians can seek support if they or a veterinarian they know is suffering from stress or any health problem. This programme is jointly funded by the Veterinary Council and the New Zealand Veterinary Association and has now been extended to provide support for veterinary nurses.

Reference: All references in the above article are cited in the NZ Health Strategy, DHB Toolkit *Minimising Alcohol and other Drug Related Harm 2001*.

Ketamine controlled drug

The Ministry of Health is currently consulting on a proposal to reclassify Ketamine as a controlled drug under the Misuse of Drugs Act 1975. An Expert Advisory Group recommended this move last year.

Ketamine is known in the drug culture by several names including 'Special k', and is used in conjunction with other drugs such as ecstasy with potentially adverse or harmful health effects. Authorities are concerned that it has recently been increasingly diverted from legitimate domestic supplies by theft or importation. The effect of the reclassification will be that Ketamine would be regulated in the same way that other C4 controlled drugs are, in terms of keeping it in a locked safe compartment.

Information on the consultation process is available from the National Drug Policy Team of the Ministry of Health.



Vets in Stress Programme

24 Hour Freephone
Confidential Counselling Service

0508 664 981

Helps you solve personal and work problems, including:

Relationship problems Change	Drug and alcohol issues Stress	Work issues Grief
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Complaints Assessment Committee report

Fifteen complaints had been received at 1 June 2006, a similar number to that received at this time in 2005. One did not satisfy the criteria to be investigated and five have been completed.

Of the remaining complaints four have passed the initial correspondence stage and the relevant committee is seeking further information. Four are awaiting all of the initial correspondence. One is on hold awaiting a determination by a different tribunal.

Four different committees have been active during this year, these committees involve three different lay members, and six different veterinarians. This is largely due to perceived or actual conflict of interest on the part of one or more of the committee members.

Four complaints received this year have been referred from the Council under section 39 of the Act. Four of the complaints involve 2 veterinarians. Five out of 15 of the complaints received so far this year have been made by veterinarians. Three of those involve prescription animal remedies, one involves contractual issues, and one relates to standard of practice.

Mediation has not been offered in any complaints so far this year. Nor has the committee considered recommending competence or medical assessments which is an option now available to them under the act.

In one complaint the committee has used its powers under section 41 of the new Act to call for information from the veterinarian.

In relation to last year's complaints fifteen had been carried over and as at 1 June only one had still

to be completed. In relation to one of the 2005 complaints, charges of professional misconduct have been drawn up against the vet, but diversion has been offered and this is currently being negotiated between the CAC and the veterinarian. For the remainder of the complaints received in 2005 and completed this year, there has been feedback received from three complainants that they were unhappy with the decision of the CAC. People are motivated to complain about veterinarians for different reasons and the complaints process does not always result in the outcomes that the complainant was seeking. A certain level of dissatisfaction is not altogether surprising, and is reported in comparable consumer complaints services.

Consumer advice leaflet available



The Council has reprinted its Consumer Advice leaflet. This leaflet gives advice to consumers of veterinary services about how to avoid problems when their animal receives veterinary treatment, what to do if there are problems and how the complaints process of the Veterinary Council works.

Your clinic should receive copies of the leaflet at the same time as this Newsbrief. If they don't arrive, email the Council.

Ethical guidance when prescribing for specific purposes

Recently the Complaints Assessment Committee (CAC) has dealt with several veterinarian against veterinarian complaints. In these complaints veterinarians providing particular services such as consultancy, harvesting and placement of genetic material and specific surgical services have come into conflict with local practitioners over issues of prescribing prescription animal remedies (PARs).

Primarily, failure of effective communication is the root cause of these disputes. The Code of Professional Conduct states that, "professional co-operation between veterinarians should be as constructive and informative as possible and should be governed by the highest ethical standards". Effective collegial discussion is a guiding

principle in professional ethical behaviour. Moreover, veterinarians providing specific services to bone fide clients of local practitioners have an onus of responsibility to make primary contact with local veterinarians. With respect to the prescription of PARs this communication is essential for ethical and lawful prescribing. Contact details for veterinarians are in the Handbook and in the local yellowpages.

There are a number of prerequisite conditions that must be met before a PAR can be prescribed. Firstly, the veterinarian must be given and accept care of the animals. This condition of "immediate care" must be real and there must be some evidence to support this relationship. A

consultation must take place where the veterinarian needs to gain “sufficient information” in order to substantiate the prescription. Furthermore, the veterinarian must have attended the animals recently or often enough to demonstrate personal knowledge of the case in order to make an informed diagnosis or to determine that the animals are fit and proper for the proposed procedures. Finally, there is the necessity for the prescribing veterinarian to either provide emergency care personally or to make arrangements for another veterinarian to provide this care. Importantly, all the risk management (e.g., withholding period communication) of the prescribing event rests with the prescribing veterinarian.

Therefore, when a consulting veterinarian wishes to provide services to a client of a local practitioner, there are options available for the ethical and lawful prescribing of PARs to enable or assist the procedures to be carried out.

- ♦ The farm owner or the consulting veterinarian (as an agent of the owner) may request a prescription from the local practitioner. The communication protocols require the consulting veterinarian to contact the local veterinarian in the first instance. As the prescribing veterinarian the local practitioner then has the responsibility to ensure that all the elements described above have been satisfied. Clearly, co-operation of the consulting veterinarian in assisting the prescribing veterinarian to satisfy the “sufficient information” requirement will often be necessary. The prescribing veterinarian has the same right of oversight as when prescribing PARs during the course of usual clinical practice.
- ♦ The consulting veterinarian may prescribe the PARs themselves. Under this scenario the consulting veterinarian needs to demonstrate that all preconditions of prescribing have taken place. For example, the consulting veterinarian has been given immediate care of the animal(s) (albeit to conduct a specific procedure—clients are within their rights to offer care of their animals to more than one veterinarian or veterinary practice) and has conducted a consultation. It is also necessary for the consulting veterinarian to either provide emergency care themselves or to arrange it with a local practitioner.

Under the scenarios presented here (and there may be others) effective communication between veterinary colleagues is a prerequisite. In the first scenario the consulting veterinarian may need to provide a full clinical briefing to the prescribing veterinarian to enable the prescribing veterinarian to have “sufficient information”.

In the second scenario the veterinarian providing emergency care needs to have been similarly briefed on the clinical details and the PARs prescribed and administered i.e., veterinarian to veterinarian technical communication. In order to protect both parties the CAC recommends that the prescribing relationships are documented.

Clearly commercial issues that will fall out of these arrangements. What is charged to whom for the value created or added is not a matter for the Veterinary Council or the CAC to decide. However, ensuring clients are fully informed of their choices and risks, that there is clarity and transparency of charging, and last but not least optimizing welfare outcomes of the animals involved, are all matters of interest to the CAC.

Apart from the formal complaints received by the CAC there have been anecdotal reports of veterinarians prescribing PARS for particular services without the knowledge of the local practitioners who are expected to provide the emergency care. The CAC would like to hear about these cases.

2006 Veterinary handbook

The 2006 Handbook will be published within the next month and should be mailed to all veterinarians resident in New Zealand by mid August. Additional copies can be purchased from the VCNZ Office. The handbook contains the updated Code of Professional Conduct, and is generally in the same format as previous years although the list of registered specialists has been moved to the front of the listings. If you do not receive your copy contact the VCNZ office

Council error

The Council has the ability on its database to indicate that restrictions apply on a veterinarian’s practice. This then transfers to the database on the online website. Unfortunately this box was ticked in error for Dr Philip Watson resulting in the online register indicated that he had restrictions on his practice. The Council apologises to Dr Watson for this mistake and makes it clear that he has never had any conditions against his practising certificate nor been the subject of disciplinary action. His record has obviously been amended. A ‘fix’ has been added to the database so that the box cannot be amended without a second level check. The mistake did not affect any other veterinarian.

Recognition of overseas examination process

At its meeting on 1 June the Veterinary Council approved the Canadian National Examining Board examination for foreign veterinary graduates. This means that those who have passed this examination and meet other criteria (for example, they have a four year primary veterinary degree, English competency and evidence of fitness to practise) can register in New Zealand without further examination.

The resolution followed a recommendation from the May Australasian Veterinary Boards Council that constituent boards approve this overseas assessment process. The

Veterinary Council of New Zealand had promoted the approval of the Canadian examination at Australasian level, as it had done with the American equivalent examination (the ECFVG). The Council sees little value in a graduate having to sit the New Zealand National Veterinary Examination or the Australian equivalent when they have already successfully completed a robust equivalent examination overseas. The Australasian Boards have for many years recognized the Royal College membership examination.

Scopes of practice for Limited Registration

On 15 June 2006 the Council gazetted four scopes of practice for limited registration for those not otherwise eligible for registration in New Zealand. This followed a consultation exercise undertaken during the first part of the year. The four scopes are:

- ♦ **Academic scope** (for those working in an academic setting who have particular required post graduate qualifications)
- ♦ **Industry scope** - laboratory diagnosis and pathology (for those working in this area who have relevant post graduate qualifications and experience)
- ♦ Scope relating to **biosecurity or other emergency** situation (to deal with situations such as a biosecurity alert where persons may be needed who are not eligible for general registration).

- ♦ Scope relating to **particular skills for a restricted period** to deal with situations which are very specific, such as a person not eligible for general registration who has a specific skill set and is needed for a specific purpose for a short time. This category is not intended to provide registration for veterinarians in general clinical practice.

The Council thanks the individuals and organizations who contributed to the consultation exercise. Submissions were received from significant stakeholders such as Massey University, the New Zealand Food Safety Authority and the New Zealand Veterinary Association.

A copy of the gazetted notice is available on the Council's website at www.vetcouncil.org.nz

Specialist Registration

At its meeting on 1 June the Council granted Specialist Registration in the category of Equine Surgery to Dr Frederik Pauwels (on the recommendation of the Australasian Advisory body that scrutinizes applications for specialist registration).

Dr Pauwels gained his DVM at Ghent University in Belgium 1994. He did an internship at the Sefton Equine Referral Hospital of the Royal Veterinary College London in 1995 and obtained the RCVS Certificate in Veterinary Anaesthesia in 1996. He worked in private practice in England until 1997, and then in Ireland at a private equine referral hospital until 2000. He completed an ACVS Large Animal Surgery residency at

Purdue University, Indiana, USA in 2003, and a research assistantship at the University of Tennessee, Knoxville in 2004. Dr Pauwels obtained specialist status with the American College of Veterinary Surgeons in 2005. He also completed the AVMA Educational Commission for Foreign Veterinary Graduates certification program (ECFVG) in 2005, which made him eligible for registration in New Zealand. He was appointed as a Senior Lecturer in Equine Surgery at the Massey University Veterinary Teaching Hospital in 2005. His research interests are orthopaedics with a special interest in extracorporeal shock wave therapy.

Prescribing and sale of Unregistered Veterinary Medicines

In August the New Zealand Food Safety Authority prosecuted Vetpharm (NZ) Ltd and its company directors on charges relating to the importation and sale of two unregistered veterinary drugs over several years. The two veterinary directors subsequently faced disciplinary action before the Veterinary Council.

During the course of its investigation the NZFSA Compliance and Investigation Group (CIG) inspectors gathered evidence that showed that a number of veterinarians assisted in the illegal supply of products to users. It showed that veterinarians had been prescribing and selling products in New Zealand in breach of the Agricultural Compounds and Veterinary Medicines Act 1997 and Regulations. This also likely placed them in breach of the Code of Professional Conduct.

There were three categories of products involved. Firstly there were a group of products that any veterinarian would reasonably be expected to know would require registration as prescription animal remedy (PAR) products. Included in this group were Ulcerguard, Foliophos Injection, Pentosan Injection and Transam Injection. The second group were products that NZFSA consider veterinarians should know require registration as PAR products, but where there may be some grounds for confusion, although there is an argument to make that the approved Code of Practice under the ACVM Act should have been applied. The products in this group were Sterile water for injection and injectable Saline. The third group consisted of the Cosequin range of products where it is considered that there is a higher potential for confusion, but that it would be a reasonable expectation for a veterinarian to check the status of the products concerned.

One of the products in question Ulcerguard was registered in Australia by Ranvet Pty Limited. It had a National Registration Authority (NRA) registration statement on the packaging and a statement to show that it is a schedule 4 poison in Australia, so it is clearly a product that requires registration. There was no Animal Remedies license statement and no ACVM Act registration statement on the packaging, nor did the product appear on the list of New Zealand registered products (<http://www.nzfsa.govt.nz/acvm/registers-lists/acvmregister/index.htm>).

Another of the products Cosequin Equine Powder Concentrate from Nature-Vet Pty Limited in Australia was recalled as part of the Pan Pharmaceuticals exercise in Australia due to problems in manufacture. This is an example of how the illegal importation and the supply of these products in New Zealand assisted by veterinarians have the ability to undermine the effectiveness of the



regulatory process with serious consequences for New Zealand.

The prescribing and sale of an unregistered product could also have serious trade implications for New Zealand in terms of the European Union veterinary agreement and agreements with other regulators. Some of these market access agreements have taken many years to develop, negotiate and implement. New Zealand is also subject to stringent audit by our trade partners. It is common practice for the auditors to spend significant time with the ACVM Group. The auditors closely scrutinise the Group's approval process for veterinary drugs, and the activities around any breaches of the risk areas of the Act as these are recognised as critical control points in the process.

Any offending against the legislation regulating primary produce has the potential to undermine trade relations, with consequential damage to New Zealand's export income.

The Animal Products Act 1999 (APA) provides the regulatory regime to enable the government to discharge its accountabilities for domestic and export trade in animal produce. The APA relies on the approval processes of the ACVM Act to manage the potential for risk to be introduced to the human and animal food chains from the use of veterinary medicines.

At best the activities by the veterinarians involved in the importation, sale and prescribing of the unregistered remedies showed a woeful lack of knowledge or their roles and responsibilities under the ACVM Act and their own Code of Professional Conduct, at worst this equates to unprofessional and illegal activity. The NZFSA response to this will be additional compliance auditing (which can be done at the cost of person being checked), targeted at the companies that were identified in the investigation. Where significant breaches are found, it is usual practice to put in place prohibition notices under the ACVM Act (covering importation, manufacture, sale or use) while an investigation is carried out and prosecution is considered.

Registrations 2001–2005

Data on new registrations over the last five years shows how dependent we have been over this period on veterinarians trained overseas who work here temporarily. 898 veterinarians were registered for the first time in New Zealand during 2001-2005. 64% (581) of these were trained overseas. Of those, 84% have returned home or are not currently practising in New Zealand.

For Massey graduates the retention rate is higher, with 64% of those who registered during 2001-2005 still working here. Many Massey graduates work for 1-2 years in New Zealand post graduation before they fly away for their overseas experience. Of the 317 Massey graduates who registered with the Council during 2001-2005 64% of them are still practising in New Zealand as at June 2006, 27% are overseas and another 8% are not currently practising. Some of those not practising may also be overseas, others are studying, or on maternity leave.

All vets registered 2001-2005	898	
Massey grads		%
still here	204	64%
not currently practising	26	8%
overseas	87	27%
	317	
Overseas grads		
still here	92	16%
not currently practising or overseas	489	84%
	581	

Professor Neil Bruere ONZM

The Council congratulates Emeritus Professor Arthur Neil Bruere in his appointment as an officer of the New Zealand Order of Merit (ONZM).

For services to veterinary science. Professor Bruere has practised and taught veterinary science for over 50 years and is a recognised authority on cytogenetics and livestock health. He taught at Massey University for over 20 years, was foundation Professor of Veterinary Medicine and Clinical Pharmacology and head of the Veterinary Clinical Sciences Department for nine years until he retired in 1988. He was a foundation member of the Sheep and Beef Cattle Veterinarians Association of the New Zealand Veterinary Association and served as president on two occasions. He was awarded the Association's Alan Baldry International Crook for Service to the sheep industry and made a life member. In 2005 he received the President's Award of the New Zealand Veterinary Association. He has also received

Distribution of veterinarians by region



The map above shows the distribution of currently practising veterinarians by region, note this includes all veterinarians, not just those working in clinics. 35% of currently practising veterinarians work in the South Island and 65% in the North Island. Some industry sectors have required more veterinarians in particular areas, for example the numbers of veterinarians in the Canterbury region has have increased by 22% since 2000. (Figures as at 1 July 2006)

the Australian College of Veterinary Scientists medal in 1985. Professor Buere has contributed to numerous publications and conferences and was author of several texts on sheep health and veterinary toxicology. He was the driver behind and collator of the Roll of Honour of Veterinarians, printed recently in Vetscript.



Prof Neil Bruere and his wife Betsy