

November 27, 2017.

DELIVERED BY COURIER

Ontario Minister of Agriculture, Food and Rural Affairs,  
11<sup>th</sup> Floor,  
77 Grenville Street,  
Toronto, Ontario.  
M7A 1B3

Dear Minister:

**Re: Potential changes to Veterinary Legislation**

We have been retained by the Veterinary Practice Owners of Ontario (VPOA), an organization of current and past veterinary practice owners. These veterinarians are very concerned about the present tenor of regulation of veterinary medicine in the province, and about what they consider to be an absolutely outrageous proposal for changes to the legislation under which the profession is regulated. (The proposal is contained in the attached report, which is marked up for ease of analysis.) They have made attempts to reach out to all of their provincial veterinary colleagues, but have so far been thwarted by the refusal of the regulatory body to share their colleagues' email addresses with them.

As you are likely aware, veterinary medicine in Ontario is technically a "self-regulated profession". The general philosophy behind self-regulation is that, in return for a de facto monopoly, members of a profession will shoulder the responsibility, including costs, of ensuring that members are fully-qualified to practice, and that they conduct their professional practice to the level required by law. This approach requires a separate regulatory bureaucracy, in this case the College of Veterinarians of Ontario (CVO), fully funded by members' licence fees. For the most part, this model functions well in provinces across the country. (The legislative proposal in the attached report would effectively end self-regulation of veterinarians in Ontario, force them to pay much more each year in licence fees, and allow an offensive level of intrusion into their clinical and business affairs.)

The CVO is a creature of statute, and is notionally governed by an elected Council of 13 veterinarians and five appointed (by you as Minister) non-veterinarian public members.

In theory, the Council sets the long and short term policy directions of the CVO, and the salaried registrar and staff conduct the operations of the organization such that those policy directions are appropriately executed.

Reply to:

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However, for many years now, and during the employment of the last several registrars, the CVO Council has tended to hand over virtually all of the responsibilities (including setting and carrying out policy) for running the organization to the registrar.

Ontario veterinarians are, to a degree, responsible for the Council members that they elect. However, it must be remembered that, for the most part, members spend their working days caring for animals and dealing with the many business and logistical issues of practice, and then go home to spend their precious little remaining time with their families. You may be aware that the majority of the profession is now young women with young families.

This means that, for good or bad, elected Council members may or may not be current with the real issues and challenges of modern practice.

Historically, this shortfall of knowledge and experience was often compensated for by the presence of an experienced veterinarian as registrar. This circumstance has changed (and, among self-regulated professions, veterinarians are not alone in this change) in that, rightly or wrongly, Council has sought out professional managers with no experience in the profession to run virtually all aspects of CVO affairs, and the professional education and knowledge that historically was present in the registrar's office is no longer.

Currently, the CVO is attempting to push through major legislative changes, almost solely on the premise that, because existing legislation is of essentially 1980s vintage, and for no other properly demonstrated reason, it must need replacing. The CVO has not even attempted to present any argument that the legislation is not effective in ensuring that veterinary medicine is practiced to a high standard in Ontario. Nor is the CVO attempting to make the argument that any other North American veterinary regulator is unable to provide effective regulation because of out-of-date legislation. The report very much leaves the impression that it is a "solution seeking a problem".

The VPOA believes that a brief consultation with any of your government lawyers with expertise in administrative and regulatory law will elicit the view that most administrative and regulatory law challenges come not from the legislation itself, but from the insufficient interpretation and application of the legislation. (It is also suggested that you seek from the same lawyer her/his view of the CVO handling of the Dr. Rekhi case, currently in the news regarding dropped criminal charges.)

Ontario's veterinarians are largely terrified (we are assured that the word "terrified" is appropriate) of the CVO regulator. Unfortunately, in the current environment, the only appropriate response to any inquiry from the regulator is "call your lawyer". The legislative changes proposed in the attached report would only make already difficult circumstances worse.

While the CVO is notionally conducting a survey of public and members seeking a response to the attached report, the VPOA not, at this point, comfortable that all received feedback is being properly recorded and publicly shared.

The basic concern is that the allegations of inadequate legislation in the report are being used as a cover to completely revamp the governing structure of the profession into what effectively would be the equivalent of a government department privately funded and answerable to no one. The report contains the following:

**"Holding annual general meetings allows for confusion about the College's role and gives members the impression that they have an authority in relation to College decision-making at some level"**

Clearly, the proponents of the report already believe that veterinary medicine is not even now a self-regulated profession.

Whether changes are to be made to this legislation is a decision for Ontario's elected legislators. The current CVO appears to be approaching these proposed changes as though they are already a "done deal". The VPOA believes that, prior to any change, at the very least, a simple and straightforward referendum of veterinarians should be conducted. The organization is comfortable that the vast majority would vote, firstly, for "no change". If there must be a change, the VPOA believes that the vast majority would vote for an American "State Board" approach, where a branch of the government registers veterinarians and administers the legislation with appropriate assistance from panels of licensed members of the profession. This approach has a long and successful track record.

Attached are three documents:

- The CVO draft report proposal;
- A "markup" of the report, showing the VPOA's concerns in "balloons" beside the report text; and
- A table sampling of some of the concerns (identified in more detail and number in the markup).

We would like to request a meeting with you to discuss the VPOA's concerns as soon as possible. The attendees representing the VPOA would be two or three board members (all licensed veterinarians) and legal counsel. We believe that, in preparation for the meeting, a review of the attached documents by one of your policy analysts experienced in this area of legislation could be extremely helpful.

We thank you for your attention. We look forward to hearing from you at your earliest convenience.

Yours very truly,  
**SMITHVALERIOTE LAW FIRM LLP**

Francis M. Valeriote, B.A., LL.B.  
FMV/bc encls.  
cc Minister Sandals, MPP Guelph