

DRAFT

**Achieving a
Modern Approach
to the Regulation
of Veterinary
Medicine in
Ontario**

May 2017



VETERINARIANS

THE COLLEGE OF

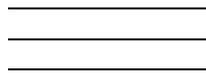
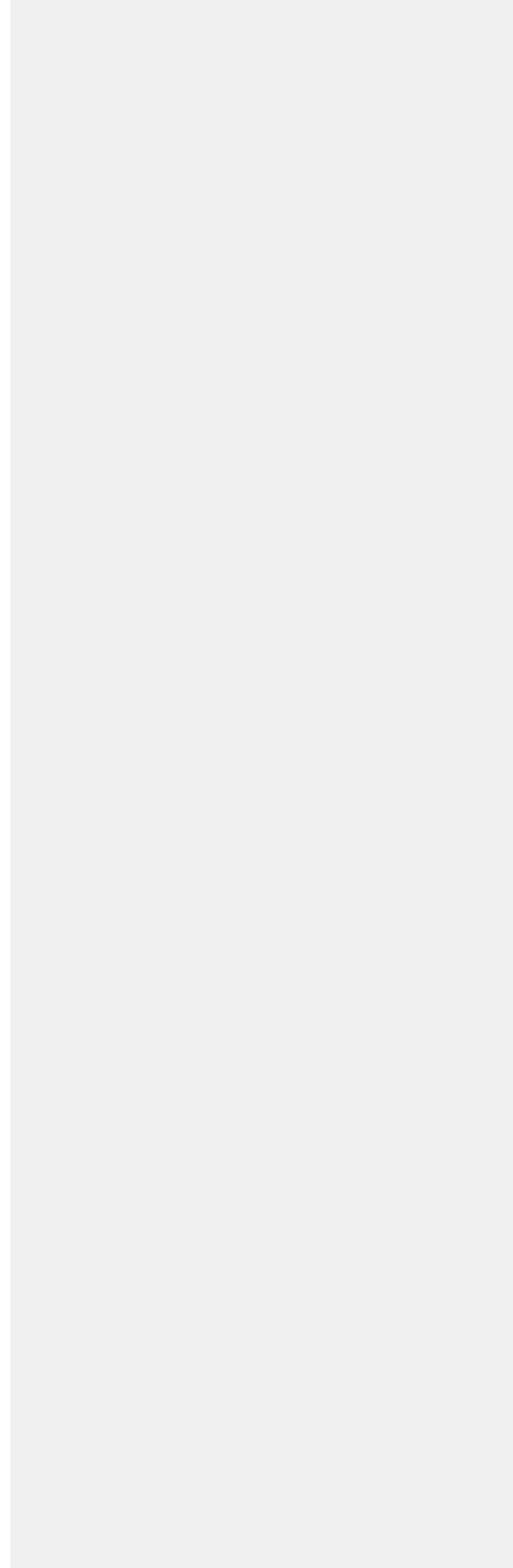


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Acknowledgement

This document is a testament to the vision of Councils' of the College of Veterinarians of Ontario who, based on their understanding of the current practice environment and of public expectation for safe and accessible animal care, had the courage to position the profession for fundamental and historic change to the regulation of veterinary medicine in the public interest. This has been a four year journey with an unprecedented number of voices - veterinarians, veterinary technicians, animal owners, other animal care providers, and the public - influencing the outcome.

It is with pride that the profession advances this document as its next vision of the modern regulation of veterinary medicine in Ontario. The research, the data, the consultation, and the evidence on which these recommendations are based are unprecedented.

In particular, the College wishes to acknowledge the members of its four key working groups which guided the project.

Oversight Advisory Group Dr. Larry Caven (Chair) Dr. Marc Marin Mr. Murray Hunt Mr. Doug Raven Dr. Liz Saul Dr. Greg Worley	Scope of Practice Dr. Marc Marin (Chair) Dr. Christine Coghlan Dr. Jennifer Day Ms. Diane Freeman Dr. Dorothy Geale Dr. Irene Moore Dr. Alison Moore Ms. Andrea Steele Ms. Elise Wickett
Investigations and Resolutions Dr. Steven Jacobs (Chair) Dr. Glenn Armstrong Mr. Andrew Glenny Ms. Katherine Hoffman Mr. Peter Laframboise Dr. Emma Turner Dr. Tim Zaharchuk	Quality Practice Dr. Patricia Lechten (Chair) Dr. Maureen Anderson Dr. Nicole Colapinto Dr. Tyrrel de Langley Ms. Claudia Newman Dr. Ian Vallee Ms. Sandra Winkelbauer

The College Council of 2017 extends its gratitude to all who contributed to this final product. The greatest of beneficiaries of this work are those we serve – the animals and the public of Ontario.

Marc Marin, DVM
 President
 CVO Council 2017

Executive Summary

The College of Veterinarians of Ontario is the regulatory body for veterinarians in the province of Ontario. Licensing over 4600 veterinarians, the College's mandate exists to manage risks in the practice of the profession and assure the public that a reliable system exists to establish and maintain safe, quality medical care for animals. Veterinary medicine has been regulated since 1877, recognizing the professions long standing public commitment to high standards in animal care, disease surveillance, and food safety.

In 2013, as part of its strategic planning process, the Council of the College quickly identified that the existing Veterinarians Act was becoming a barrier to good and sound regulatory practices. More specifically these issues include:

- the lack of efficiency and transparency of the complaints and discipline processes,
- a mismatch between the current exclusive scope of practice model and public expectation to have choices in selecting a provider for low risk animal health care activities, and
- a lack of focus on quality assurance mechanisms that manage risks in practice and support public protection.

As a result, and in keeping with its expected role in leadership on behalf of the public and within the profession, the Council set a strategic objective in 2014 to study and consider reforming its enabling legislation.

The Council based its review and its choices on a foundation of six guiding principles which included:

- Right Touch Regulation
- Agility
- Just Culture
- Collaborative Self-Regulation
- Risk Mitigation
- Transparency

This paper presents the concepts for legislative reform, as proposed by Council after a robust and lengthy process of public consultations, of research, of accessing expert advice, and of deliberation. In particular, Council acknowledges the informed direction it received from its four working groups:

- Oversight Advisory,
- Scope of Practice,
- Investigations and Resolutions, and
- Quality Practice.

The proposed concepts are meant to identify key areas for government's consideration in modernizing the existing Veterinarians Act and making recommendations for real and meaningful change to how veterinary medicine is regulated in Ontario.

The proposed concepts range from suggested administrative amendments through to fundamental revisions or additions. Comparators on what provisions currently exist and what is being proposed, are provided alongside the reasons for why the proposal is in the public interest. Key concepts recommended for change include:

Commented [A1]: No evidence of this has been presented.

Commented [A2]: No objective case has been made that these are low risk activities. For example, a human who chooses to see a chiropractor for lower back pain before consulting a physician may not have his kidney cancer diagnosed.

Commented [A3]: There is no evidence that legislation is a problem. Please show examples. It may be the case, as with Dr. Rekhi, that operational difficulties are causing a problem.

Executive Summary

- Clarifying and adding to the roles and purpose of the College
- Increasing public member representation on Council and committees
- Adding powers to the Minister’s oversight of the College to increase its public accountability
- Redefining the scope of practice of veterinary medicine to ensure high risk medical activities are safely provided to animals
- Recognizing veterinary medicine as a system and acknowledging the skill set of veterinary technicians within the team
- Acknowledging that certain health care activities such as massage therapy, manual therapy, and other alternative options should be able to be directly accessed by animal owners rather than under the delegation of a veterinarian
- Introducing a more streamlined approach to managing investigations and their resolutions
- Introducing a mandatory quality assurance program for licenced members
- Introducing a mandatory reporting requirement for a veterinarian to report suspected incapacity of a colleague to the College
- Permitting interim suspensions and emergency investigations to take place swiftly in certain high risk circumstances
- Increasing the information provided about veterinarians on the public register including the posting of notices of a hearing, and
- Several administrative amendments to increase the College’s ability to be agile and responsive to a changing practice and political environment

Commented [A4]: Where is there evidence that this is the best thing for the animals? Are we choosing owners’ subjective beliefs over the best health care for the animals?

Commented [A5]: This appears to be a code word for avoiding scrutiny by legislators.

Commented [A6]: How is “political environment” relevant to what is the best care for animals?

Fundamental to this proposal is a recognition that the delivery of animal care is within a system. Veterinary medicine is team-based, inclusive of veterinarians and veterinary technicians with auxiliaries providing support at the level of veterinary assistants or lay staff. Other providers, often highly skilled, offer health services to animals that may not require medical intervention or oversight.

The safe care of animals, and ensuring that veterinary medical procedures are managed with careful vigilance to safeguard great outcomes, is the College’s primary business. Strengthening compliance with the scope of practice of veterinary medicine by being clearer about where harm lies, and that both veterinarians and veterinary technicians are accountable in that delivery, is imperative for the future. Further, professional regulation will work best when it is guided by professionalism and focused on the promotion of standards of competence and conduct, taking action where standards are breached, and through quality assurance mechanisms.

Modernization of the Veterinarians Act is essential to promote the profession with the best tools possible to protect animals and the public. The Council is pleased to present this document for full and open public consultation.

Achieving a Modern Approach to the Regulation of Veterinary Medicine in Ontario

INTRODUCTION

Introduction

Regulation in veterinary medicine in Ontario has existed since 1877; veterinary medicine is one of the first professions to be recognized by government as important to public safety, and to greater societal interests. The Agriculture and Arts Act, as it was then known, formally established the social contract between veterinarians and the public. This has been a cornerstone to the profession's view of its obligations and professionalism ever since.

The Council is the governing body of the College of Veterinarians of Ontario and has, as its chief responsibility, oversight of the implementation and enforcement of the Veterinarians Act¹ and its enabling Regulation 1093². Within this oversight is an obligation to continually evaluate the effectiveness of the Act in meeting current public expectations and good regulatory practices. It is Council's duty to raise to the attention of the Minister to whom it reports, regulatory changes that might better serve a public purpose and improve the practice of veterinary medicine and its safeguards.

While the Veterinarians Act exists to protect the public interest, it must also be crafted so as not to unduly control either public choice or the professional judgement of the veterinarian. In fact, professional regulation has been considered to work best when its focus is on professionalism, through the promotion of standards of competence and conduct, through the taking of actions where standards are breached, and through quality assurance mechanisms.

Current Context

The most recent legislation governing veterinary medicine in Ontario was promulgated in 1989. It was at this time that the government sought to separate the association (professional interest) and the regulatory functions (public interest) of the organization, while maintaining the existing model of self-regulation:

- oversight of individual veterinarians,
- a defined exclusive scope of practice,
- accreditation of veterinary facilities,
- establishment of professional standards and ethics, and
- a complaints and discipline process.

This model, at the time, was consistent with most other Canadian jurisdictions.

The Veterinarians Act has had at least two revisions since its inception – one to accommodate government interests in inter-provincial labor mobility, and another to introduce professional corporation accountabilities. Most other modernizing changes have occurred at the level of regulation. The last update to Regulation 1093 was in 2015.

Currently, the College licenses over 4,600 veterinarians and accredits over 2,300 facilities³.

Commented [A7]: Is it not the case that this is still the model for veterinary regulation in all other Canadian provinces and for virtually all self-regulated professions all over North America?

Achieving a Modern Approach to the Regulation of Veterinary Medicine in Ontario

Evolving Regulatory Landscape

Professional regulation, while in existence internationally since the late 1700's and in Canada since the 1860's, has experienced some of its greatest evolution and debate over the last 20 years. The United Kingdom and Australia have fundamentally altered their models to ensure greater public accountability and efficiency, with an aim to consolidate the functions of multiple regulators under one agency. Meta-regulation, or umbrella legislation, was also introduced in Ontario with the Regulated Health Professions Act (RHPA) in 1993 and the Fairness Commission under the Fair Access to Regulated Professions and Compulsory Trades Act in 2006. More specifically, however, all of these changes speak to several trends in occupational regulation:

- a decrease in exclusive scope of practice models, acknowledging team based care and public demand for direct access to lower risk services by practitioners of the public's choosing,
- an increase in mandatory quality assurance programs as continuing competence has clearly become a factor in assuring safe practice over time,
- an increased focus on public risk and harm and ensuring professional standards and programs are developed with these in mind,
- an increased emphasis on regulating the system, and not just the individual licensee, to ensure that risks are mitigated. In the case of veterinary medicine, this speaks to the regulation of veterinary technicians within the model to better ensure standards of animal care are met,
- an increased role of public members on Councils and Boards of Directors, demonstrating a strong balanced public voice in overall regulatory governance and decision making,
- an increasing preference for legislation that is less prescriptive; providing powers in regulation and bylaw that afford for greater nimbleness in change over time,
- an increase in the regulator's accountability to the public through government, and
- an increase in public expectation of the transparency of regulatory processes and the appropriate legislative tools to manage risk within the respective profession.

Commented [A8]: Are there examples in other self-regulated professions where this legislative change has already taken place?

Commented [A9]: Exclusive scope of practice is the sole reason for "self-regulating professions". If veterinarians no longer have this, then why not regulate them via a simple branch of the provincial government, as is effectively (and much less expensively) done by American "state boards"?

Commented [A10]: The CVO is tasked with regulating individual veterinarians. If the elected decision-makers wish to regulate others involved in animal health, separate legislation should be considered.

Commented [A11]: Where is the objective evidence (not opinions) that this statement is true?

Commented [A12]: This would be hugely more expensive than the already very expensive system. Is the proposal that veterinarians pay for this? Shouldn't the technicians pay for their own regulation?

Commented [A13]: This would send the regulatory body away from functional "self-regulation" and again, raise the issue of why members should pay a huge premium for self-regulation when, in fact, it no longer exists.

Commented [A14]: The public voice argument should not trump all others. If it did, we would still have capital punishment for a variety of crimes.

Commented [A15]: Standards don't need to be "nimble". They need to be clear, objective and reasonable. This again looks to be seeking to avoid the oversight of elected legislators.

Commented [A16]: In all of this document, the regulator appears to be seeking to decrease, not increase, its accountability. CVO members are already concerned that this regulator is unaccountable.

Achieving a Modern Approach to the Regulation of Veterinary Medicine in Ontario

EVOLVING VETERINARY PRACTICE LANDSCAPE

Evolving Veterinary Practice Landscape

Changes to the practice of veterinary medicine have, of course, also occurred. In the last 25 years some of the most influential shifts include:

- an increase in veterinarians practicing companion animal medicine,
- a decrease in veterinarians practicing in food animal medicine and/or equine medicine,
- an increase in complementary and alternative veterinary medicine – animal chiropractic, animal rehabilitation, animal massage, animal homeopathy, etc.,
- an increase in trained veterinary technicians,
- the introduction of the Ontario Association of Veterinary Technicians (OAVT),
- a significant increase in the direct access by the public to all types of animal health and welfare information,
- an increase in public expectation of choice and access to preferred animal care options,
- an increase in societal concerns for animal welfare
- the emerging use, and now rapid development, of technology in animal medicine, and
- an increasing convergence of veterinary medicine and human medicine, with regard to public health (interestingly, this is where the profession began).

Achieving a Modern Approach to the Regulation

Rationale

During the consultation and research phase of the development of the College's Strategic Plan from 2014 to 2017, it became abundantly clear that the existing Veterinarians Act was neither current nor sufficiently robust to meet the public protection needs of modern and evolving veterinary medicine. Delays and inefficiencies in the complaints investigation process, lack of transparency of information relevant to the public in determining choices related to veterinary care, the absence of a mandatory quality assurance program, the increasing challenge in managing unlawful veterinary practice, and a real need to focus on potential risks and harm to animals within a regulatory scheme, compelled the College Council to proceed with studying the need for change.

In addition, the need to better consider the delivery of veterinary medicine as a system, rather than as a single provider, was evident. Veterinary technicians are now well-established within the delivery model in Ontario and the role of delegation and of accountability are increasingly at the forefront of patient outcomes.

Last but not least, public expectation and values are shifting the expectations of professional regulation. Nimbleness and responsiveness to changes in practice, ease of direct access and choice in provider, safe implementation of innovative approaches to diagnosis and treatment, and making rules only as needed and demonstrated by evidence, are clear messages to regulators across any profession.

As a result, this review has culminated in a series of recommended changes to the Veterinarians Act, which are intended to modernize its regulatory framework and allow a more responsive and effective approach to regulating veterinary medicine in Ontario.

Commented [A17]: Clear to who?

Commented [A18]: It is almost always the case that, when this accusation is made, the problem is with the organization administering the legislation, not the legislation itself. Again, no examples purporting to show the truth of this statement are given.

Commented [A19]: Again, evidence please.

Commented [A20]: There's no evidence that this is an issue or a concern for the CVO.

Commented [A21]: This is a crucial claim. Why did the college not report Dr. Rekhi to the humane society? The police?

Commented [A22]: Technicians should have their own, separate from the CVO, regulatory body and pay their own way, as is the case with human nurses. (While veterinary technicians have a professional association with certain membership requirements, the OAVT, it is **not** a regulatory body in the sense that the CVO is.)

Commented [A23]: Again, this appears to seek to avoid the scrutiny of elected decision-makers. Further, almost no consideration here is given to the fact that, even more than "owners", veterinarians are the best placed individuals to make decisions regarding animals' well-being, since animals are unable to speak for themselves.

Commented [A24]: Ontario veterinarians do not wish to fund, or be the guinea pigs for, this legislative and regulatory experiment. Let wealthier professionals in some other jurisdiction try to reinvent this wheel.

Commented [A25]: There is no evidence presented that the existing legislation is not completely sufficient for regulating Ontario veterinarians in the best interests of clients and their animals.

Achieving a Modern Approach to the Regulation of Veterinary Medicine in Ontario

PRINCIPLE BASED APPROACH

Principle Based Approach

As a part of its legislative reform initiative, the College approved and adopted a number of key principles against which to analyze recommendations for change to the Veterinarians Act. These key principles provide criteria which ground the final recommendations made to government in the public interest.

Principle 1: Right Touch Regulation⁴: Right touch regulation is a concept postulated by the then Council for Healthcare Regulatory Excellence (CHRE) in the UK, and at its core means utilizing the minimum regulatory approach required to achieve the desired result. The intent is to focus on identified and verified risks and to only implement regulatory solutions when necessary.

Principle 2: Agility: Agility refers to the ability to look forward to anticipate change and to have the flexibility to refine regulatory responses over time.

Principle 3: Just Culture⁵: A just culture proposes that discipline be tied to an individual's intent or behavioural choices rather than on the outcome of their actions. In promoting a just culture, the College accepts that mistakes will occur. The compliance aim is to consider both the individual and the system which gives rise to errors. The disciplinary process must clearly manage "at risk" and "reckless" behaviour where it exists, but more broadly seek to learn from incidents and errors and improve veterinary care overall.

Principle 4: Collaborative self-regulation: Collaboration in self-regulation is demonstrated by an approach that views the public, veterinarians, veterinary technicians, government, and others involved in the safe delivery of veterinary medicine as partners in achieving quality practice outcomes.

Principle 5: Risk Mitigation: In keeping with the right touch focus on risk identification, regulatory solutions must seek to mitigate risks in practice. College processes must support the measurement and evaluation of risk(s), and solutions which manage them effectively and responsibly.

Principle 6: Transparency: The public needs access to appropriate information in order to trust that self-regulation works effectively. Transparency includes the provision of information to the public that enhances its ability to make decisions or hold the regulator accountable. Transparency, however, must balance public protection with fairness and privacy.

Commented [A26]: This well may be "postulated" somewhere, but where is it shown to be effective and "up and running"?

Commented [A27]: Again, this appears to be an attempt to avoid objective and necessary scrutiny by affected professionals and elected legislators.

Commented [A28]: This is a frighteningly subjective phrase. The regulator is there to ensure professional, competent service to clients and animals, full stop. Motivational and behavioural issues are secondary and can be factored in later when considering whether the individual should continue in the profession.

Commented [A29]: Again, regulation of veterinarians and veterinary technicians needs to be separated, as is the case with doctors and nurses.

Commented [A30]: The regulator is no one's partner. It is a regulator, and essentially serves a policing function. To suggest otherwise is misleading, disingenuous at best, and dishonest at worst.

Commented [A31]: Risks could easily be assessed now by collecting and collaborating in publishing, without identifying individuals, the results of all complaints across the country. Why is this not done?

Commented [A32]: What the public and the profession needs is for the regulator to clearly and objectively enforce the legislation that is now in place.

Achieving a Modern Approach to the Regulation of Veterinary Medicine in Ontario

KEY PROPOSED CONCEPTS

Key Proposed Concepts

The final concepts being proposed to facilitate modernization of the Veterinarians Act are the result of a three-year period of intense study and deliberation by the College Council. In-depth research and benchmarking at the provincial, national, and international levels, consultation with content experts, legal counsel, and regulatory colleagues, and the examination of existing College data and experience has led to this important series of recommendations for regulatory change. (See Appendix B for methodology)

The proposed concepts are divided into two broad areas; modernizing the governance of the College (which includes the overarching purpose, structure, and authorities within the Act) and modernizing the regulation of the practice of veterinary medicine (which includes concepts related to scope of practice, quality assurance, investigations and resolutions, and administrative amendments).

It is important to note that there are several provisions in the Veterinarians Act, 1989 which remain relevant and appropriate, and where no amendments are proposed.

For a complete comparison of current provisions contrasted against the proposed concepts, inclusive of legislative references, please refer to Appendix A.

Commented [A33]: Where is the cross-jurisdictional comparison showing the state of legislation in other Canadian jurisdictions?

Modernizing the Governance of the College

PURPOSE

- **Objects of the College**

Existing Provisions

The Veterinarians Act states that the principal object of the College is to “regulate the practice of veterinary medicine and to govern its members in accordance with this Act, the regulations and the by-laws in order that the public interest may be served and protected.”

It further states that the College has the following additional objects:

1. To establish, maintain and develop standards of knowledge and skill among its members.
2. To establish, maintain and develop standards of qualification and standards of practice for the practice of veterinary medicine.
3. To establish, maintain and develop standards of professional ethics among its members.
4. To promote public awareness of the role of the College.
5. To perform such other duties and exercise such other powers as are imposed or conferred on the College under any Act.

What Change is Proposed?

While the current objects of the College included in the Veterinarians Act have held the College in good stead, it is proposed that the provision of the Act relating to the purposes of the College be updated to also include the following objects:

1. To develop, establish, and maintain programs to assure the quality of the practice of the profession.
2. To develop, establish, and maintain standards and programs to promote the ability of members to respond to changes in practice environments, advances in technology and other emerging issues.
3. To inspect and accredit veterinary facilities.
4. Any other objects relating to the practice of veterinary medicine that Council considers desirable.

Why is the College Considering Changes to this Concept?

The current College objects, despite existing authority in the Act, do not presently speak to the College’s role in protecting the public interest in the inspection and accreditation of veterinary facilities. This needs to be explicitly and clearly stated. The object provisions also do not speak to ensuring the quality of the practice of the profession. A mandatory quality assurance program is being proposed (see page 26). To facilitate this work and acknowledge its importance to the reputation of veterinary medicine, as with other professions, a specific object is necessary. Further, the current objects are not sufficiently agile to account for new developments in veterinary medicine. The rationale for the inclusion of the last object, namely, “Any other objects relating to the practice of veterinary medicine that Council considers desirable” is that it allows for responsiveness, agility, and flexibility. Examples of such objects would include the College’s current involvement with the antimicrobial resistance initiative federally, and its animal welfare agenda.

Commented [A34]: There has been no evidence presented that quality of practice is an issue.

Commented [A35]: There's no evidence presented that members haven't always done this without being threatened by their regulator.

Commented [A36]: This is a “blank cheque” that would horrify any regulated group or individual, and yet another attempt to avoid the scrutiny of elected legislators.

Commented [A37]: Again, no evidence has been presented that this is a problem.

Commented [A38]: If a new development is so important that it requires new legislative authority, the elected legislators are well able to make time to deal with it.

Commented [A39]: This initiative is a nation-wide embarrassment to the profession. In order to blow smoke over the very real problem of antibiotics in animal feed, the regulators are pretending that antibiotic use in dogs and cats, for example, is a real public health problem.

Commented [A40]: Given that the College’s dealings regarding Dr. Rekhi appears to have functioned to hide his behaviour from the effects of Ontario’s humane treatment of animals legislation, it’s hard to argue that the College has an animal welfare agenda.

The proposed changes are recommended to ensure that the profession's regulatory authorities remain current and flexible, both now and in the future.

Commented [A41]: The members are comfortable that the current legislation is flexible enough. Further, this is not a CVO mandate. Ontario has separate animal welfare legislation. The CVO should focus its attention (and the use of its members' very significant annual mandatory dues) on its main regulatory function.

Modernizing the Governance of the College

STRUCTURE

- **Council Composition**

Existing Provisions

The Veterinarians Act states that the Council shall be composed of:

- Between nine and fifteen elected members who are licensed veterinarians; and
- Between three and five persons who are not members of the governing body of a self-regulating licensing body under any other Act or licensed under the Veterinarians Act and who are appointed by the Lieutenant Governor in Council.

What Change is Proposed?

The following Council composition is proposed:

- Between ten and twelve elected members who are licensed veterinarians;
- Between seven and nine member appointed by government who meet the same requirements as noted above; and
- One member who is a licensed veterinarian and who holds a faculty position at the Ontario Veterinary College

Why is the College Considering Changes to this Concept?

There has been an international trend of increasing the ratio and the inclusion of public voices at a regulator's decision-making table and on panels of statutory committees. Presently, the College has five public members on a Council of eighteen.

The College has repeatedly encountered challenges in having sufficient public members available for panels and hearings, most specifically for Complaints Committee and Discipline Committee panels.

Further, too few public members increases the need for cross committee appointments which leads to increased conflicts of interest in member matters. Increasing the ratio of public members on Council would ensure that there are sufficient public members and that the perspective of the public is appropriately represented across all decision-making tables.

The proposed Council composition would reinforce public confidence by maintaining balanced and fair decision-making.

Commented [A42]: No rationale has been given for this recommendation.

Commented [A43]: Examples, please.

Commented [A44]: Examples please. The function of public members is not to swing votes of experience professionals regarding the behaviour of their peers. Rather, the public members bring an "outsider's view" so that the peers understand immediately how their proposed decisions will look to non-professionals.

Commented [A45]: Public confidence can be reinforced by objective and clear communication regarding how the current system is set up to function.

Modernizing the Governance of the College

STRUCTURE

- **Statutory Committees & Panel Composition**

Existing Provisions

The Veterinarians Act establishes the following committees:

- Executive Committee.
- Accreditation Committee.
- Registration Committee.
- Complaints Committee.
- Discipline Committee.

For the purpose of panel composition, the following provisions are in place:

- With respect to the Complaints Committee, a panel shall be composed of at least three members of the committee, at least one of whom is a person whom the Lieutenant Governor in Council has appointed to the Council, to consider and investigate a complaint.
- With respect to the Discipline Committee, a panel shall be composed of at least three members of the committee, at least one of whom is a person whom the Lieutenant Governor in Council has appointed as a member of the Council and at least one of whom is a person who is both a member of the College and a member of the Council.

What Change is Proposed?

The amendments to the statutory committees in the Act are that the Quality Assurance Committee be added as a new committee (see page 26) and the Investigations and Resolutions Committee replace the Complaints Committee as well as the Executive Committee's investigative role (see page 27).

For the purpose of panel compositions, the following changes are proposed:

- With respect to the Discipline Committee, a panel shall be composed of at least three and no more than five members of the committee, at least one of whom shall be a public member and at least one of the members of a panel shall be both a member of the College and a member of the Council.
- With respect to panel composition for any other relevant committee, each panel shall be composed of at least three members of the committee, at least one of whom shall be a public member.

Why is the College Considering Changes to this Concept?

The introduction of the Investigations and Resolutions Committee and the Quality Assurance Committee as statutory committees are necessary to match concepts that are outlined later in this document – the Mandatory Quality Assurance Program (see page 26) and the Screening Model (see page 27).

In terms of panel composition, the revisions assist with clarity and flexibility, expressly permitting panels to be composed of three to five individuals.

Commented [A46]: Why? Are not Council members responsible for broad direction of the CVO. Is this not likely to raise further conflicts of interest? Shouldn't Council members be reserved for the last panel before matters proceed to the Health Disciplines panels?

Commented [A47]: Should it not be the case that the majority of all committees and panels be College members?

Commented [A48]: This is a circular argument or justification. "This is necessary because we say later in this document that it's necessary."

It is also proposed that committee composition, which is now included in the Act, be moved to bylaw to allow for enhanced agility. This authority has been added as a bylaw-making power (see Appendix C).

Commented [A49]: Again, this has too much potential for bureaucratic hanky panky, and appears to be an attempt to avoid proper oversight by elected legislators (and members).

Commented [A50]: This really means freedom from elected decision-makers' scrutiny.

Modernizing the Governance of the College

AUTHORITIES

• Ministerial

Commented [A51]: The only change that members support is to place all CVO staff on the Ontario government "sunshine list".

Existing Provisions

The Veterinarians Act provides that the Minister's powers include the power to:

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Act and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures;
- (d) request the Council to make, amend or revoke regulations respecting any matter under section 7 or the standards for veterinary facilities established under section 8

What Change is Proposed?

It is proposed that the updated provision of the Act relating to Ministerial powers include the following additional powers:

- The Minister (namely, the Minister of Agriculture, Food and Rural Affairs) may review and/or investigate the affairs or management of the College and audit its books.
- Consultation with the Minister and the Minister of Advanced Education and Skills Development is required before the Council establishes or amends the academic qualifications of applicants for licensure.
- The Minister may pay the College for expenses incurred in complying with a requirement under a provision related to the Powers of the Minister.
- The Lieutenant Governor in Council would have the ability to appoint a person as a College Supervisor, on the recommendation of the Minister, where the Minister considers it appropriate or necessary, with factors to be considered specified, notice provided, and written submissions by the College allowed. Unless the appointment provides otherwise, a College Supervisor has the exclusive right to exercise all the powers of a Council and every person employed, retained or appointed for the purposes of the administration of this Act. The Lieutenant Governor in Council may specify the powers and duties of a College Supervisor and the terms and conditions governing those powers and duties.

Why is the College Considering Changes to this Concept?

Strengthening Ministerial powers is a trend across government that the College supports. Increasing the powers of the Minister publicly demonstrates the College's accountability, bolsters oversight of the College, and ensures improved public protection, as needed.

Checks and balances, such as the Minister's ability to appoint a supervisor, assist the College, its Council, and its staff to remain focused on its central mission. The College welcomes this level of accountability.

Commented [A52]: Where is there any evidence that these changes are needed? Or, is this a "solution looking for a problem".

Modernizing the Governance of the College

AUTHORITIES

- Regulation & By-law Making Powers•

Existing Provisions

The regulation and bylaw making provisions in the Act are lengthy and are not listed here. For the comprehensive list of the current provisions, please see Appendix C.

What is Proposed?

The proposed list of regulation and bylaw making powers is also lengthy and includes new proposed regulation-making powers, new proposed bylaw making powers, amended bylaw-making powers, regulation-making powers to be repealed, bylaw-making powers to be repealed, and provisions that are proposed to be moved from regulation-making powers to bylaw-making powers. For a full list of the proposed provision, please see Appendix C.

Why is the College Considering Changes to this Concept?

The proposed regulation and by-law making powers are the result of an extensive and detailed review of other pieces of legislation and the College's own legislation.

The proposed amendments have endeavoured to include authorities at the most appropriate place to promote agility measured by necessary accountability and government oversight. These changes to the regulation and bylaw making powers are proposed to ensure that the College's powers remain as current as possible.

Commented [A53]: Veterinary practice does not change at such a pace that it is necessary to make these changes. No one other than the CVO staff is arguing that these changes are required. It is anticipated that, if Council members were questioned alone, without the support of CVO staff, they would be unable to defend or justify this report in any way.

Modernizing the Practice of Veterinary Medicine

SCOPE OF PRACTICE

• Definition and Authorized Activities•

Existing Provisions

The Veterinarians Act states that the practice of veterinary medicine “includes the practice of dentistry, obstetrics including ova and embryo transfer, and surgery, in relation to an animal other than a human being.”

The current Veterinarians Act is an exclusive scope of practice model of regulation wherein no one other than a veterinarian may practice veterinary medicine unless under the delegation and supervision of a veterinarian.

What Change is Proposed?

The proposed scope of practice model offers a clearer definition of what veterinary medicine is, and definitively lays out risks related to veterinary activities. The proposed model protects activities that pose the greatest risk of harm to animals. Activities that do not fall within these defined authorized activities are in the public domain. What this means is that only a veterinarian can perform the activities authorized by the Act unless they are delegated by the veterinarian, or specifically listed as an authorized subset or as an exemption. All high-risk activities related to animal medical care are under the authority of a veterinarian, and compliance by all others is expected.

Where the animal health services do not include a legislated, authorized activity, an individual can provide those services to the public without veterinary oversight. The proposed model is intended to assist with clarity for the veterinary profession, other animal service providers, the public, and the courts in determining whether an individual has violated the Act related to unauthorized practice.

In addition, the model acknowledges veterinary medicine as a system that includes defined areas of co-accountability between a veterinarian and a veterinary technician. This model intends to license both veterinarians and veterinary technicians under one piece of legislation.

Definition

The practice of veterinary medicine is the assessment of the physiological or behavioural status of an animal or group of animals and the diagnosis, treatment, prevention, and/or control of any condition, disease, disorder or dysfunction.

This definition is intended to describe what the profession does in a general way. It is not protected, in the sense that it does not prevent others from performing the same activities.

Commented [A54]: This is inappropriate. Just as human doctors and nurses are dealt with by separate legislation and regulators, so should veterinarians and veterinary technicians. There is potential for massive conflicts-of-interest otherwise.

Commented [A55]: Disagree. The fact that the public (and CVO staff) may want this doesn't make it right.

Modernizing the Practice of Veterinary Medicine

SCOPE OF PRACTICE

- **Definition and Authorized Activities**

Authorized Activities

The following is a list of proposed activities which would be legislatively authorized to veterinarians; this means that only a veterinarian can perform these activities independently, or delegate them to someone (regulated or unregulated) who is not authorized but is deemed competent by the veterinarian to perform them, as long as delegation is not prohibited. Under delegation, the veterinarian remains responsible for the supervision and outcome of the activity.

The list of authorized activities includes:

1. Making or communicating a diagnosis identifying a disease, disorder, dysfunction or condition as the cause of an animal's signs and presentation
2. Performing a medical assessment to determine the fitness for purpose or soundness of an animal, or group of animals, on which it is reasonably foreseeable that a person or organization will rely on the assessment.
3. Ordering laboratory tests on an animal or on specimens taken from an animal.
4. Prescribing, compounding, dispensing, or selling a drug
5. Performing a procedure on tissue below the dermis
6. Performing a procedure below the surface of a mucous membrane
7. Performing a procedure on or below the surfaces of the teeth, including the scaling of teeth and occlusal equilibration
8. Performing a procedure on or below the surface of the cornea
9. Setting, immobilizing, or casting a fracture of a bone or a dislocation of a joint or a severed tendon
10. Administering a substance by injection or inhalation, or monitoring of such
11. Moving the joints of the spine beyond the animal's usual physiological range of motion using a fast, low amplitude thrust
12. Putting an instrument, arm, hand, or finger,
 - i. beyond the external ear canal,
 - ii. beyond the point in the nasal passages where they normally narrow,
 - iii. beyond the larynx,
 - iv. beyond the opening of the urethra,
 - v. beyond the labia majora,
 - vi. beyond the anus or cloaca, or
 - vii. into any other natural or artificial opening into the body
13. Applying or ordering the application of a form of energy prescribed by the regulations under this Act
14. Performing upon an animal any manual procedure for the diagnosis and/or treatment of pregnancy, sterility, or infertility
15. Performing allergy testing

Commented [A56]: Administering this would be a nightmare, and would increase the work and cost of the CVO exponentially as litigation (paid for by the unfortunate membership as a group) on every point would ensue. Ditto the list below of activities to be carried out by veterinary technicians.

There will be restrictions in regulation that do not permit the delegation of the following activities:

- Making a diagnosis identifying a disease, disorder, dysfunction or condition as the cause of an animal's signs and presentation
- Performing a medical assessment to determine the fitness for purpose or soundness of an animal, or group of animals, on which it is reasonably foreseeable that a person or organization will rely on the assessment
- Ordering laboratory tests on an animal or on specimens taken from an animal
- Prescribing a drug
- Setting a fracture of a bone or dislocation of a joint or setting, immobilizing, or casting a severed tendon
- Moving the joints of the spine beyond the animal's usual physiological range of motion using a fast, low amplitude thrust
- Ordering the application of a form of energy prescribed by the regulations under this Act
- Performing upon an animal any manual procedure for the diagnosis of pregnancy, sterility, or infertility

Subset of Activities Authorized to Veterinary Technicians

Veterinary technicians are, for this purpose, defined as individuals who have graduated from an accredited academic program and meet an established level of competence, which both veterinarians and the public can have confidence in. Veterinary technicians, in this model, are licensed professionals, who are permitted a higher level of responsibility with a reduced need for delegation and supervision in specifically named circumstances.

The following is a list of subsets of authorized activities (alongside the authorized activities that they fall under) that veterinary technicians are authorized to perform, either under an order⁶ from a veterinarian, or by initiation⁷.

This subset of authorized activities recognizes the credentialed skill set of veterinary technicians and promotes collaborative teamwork and co-accountability with a veterinarian, in keeping with client consent and responsible supervision, and independence, where defined in law.

Modernizing the Practice of Veterinary Medicine

SCOPE OF PRACTICE

- **Definition
and Authorized
Activities**

Modernizing the Practice of Veterinary Medicine

SCOPE OF PRACTICE

- **Definition and Authorized Activities**

	Activities Authorized to Veterinarians	Subset of Activities Authorized to Veterinary Technicians	Authority
1.	Making or communicating a diagnosis identifying a disease, disorder, dysfunction or condition as the cause of an animal's signs and presentation	Triaging emergency patients	Initiate
4.	Prescribing, compounding, dispensing, or selling a drug	Preparing a drug for the purpose of dispensing a drug	Order
5.	Performing a procedure on tissue below the dermis	Collecting specimens for diagnostic tests Placing IV catheter for emergency purpose Placing IV catheter for therapeutic purpose	Order Initiate Order
7.	Performing a procedure on or below the surfaces of the teeth, including the scaling of teeth and occlusal equilibration	Performing dental prophylaxis, inclusive of scaling and occlusal equilibration	Order
8.	Performing a procedure on or below the surface of the cornea	Collecting specimens Performing tests on the surface of the cornea	Order Order
9.	Setting, immobilizing, or casting a fracture of a bone or a dislocation of a joint or a severed tendon	Applying splints and/or bandages for the purpose of immobilizing a fracture of a bone or a dislocation of a joint	Order

Modernizing the Practice of Veterinary Medicine

SCOPE OF PRACTICE

• Definition and Authorized Activities •

	Activities Authorized to Veterinarians	Subset of Activities Authorized to Veterinary Technicians	Authority
10.	Administering a substance ⁸ by injection or inhalation, or monitoring of such	Administering a substance by injection or inhalation in keeping with Schedule X ⁹ (please note that this is inclusive of induction, gases, nerve blocks, chemotherapy, epidurals, and fluid therapy) Monitoring patients under anesthesia	Order Order
12.	Putting an instrument, arm, hand, or finger,		
	i. beyond the external ear canal,		
	ii. beyond the point in the nasal passages where they normally narrow,	Placing and removing nasogastric tubing	Order
	iii.	beyond the larynx, Placing and removing	Order
	iv. beyond the opening of the urethra,	Placing and removing urinary catheters	Order
	v. beyond the labia majora,	Vaginal swabbing	Order
	vi. beyond the anus or cloaca, or	Placing and removing irrigation tubing beyond the anus or cloaca	Order
		Expressing anal sacs internally	Order
	vii. into any other natural or artificial opening into the body	Inserting and removing intra-mammary cannula	Order

Modernizing the Practice of Veterinary Medicine

SCOPE OF PRACTICE

Risk of Harm Clause

As this model, and compliance with the model, relate to the authorized acts and the risk related to animal outcomes, any individual not licensed by the College who treats or advises about an animal's health where it is reasonably foreseeable that serious bodily harm to an animal or human may result from the treatment or advice or from an omission from them could be prosecuted for the unlawful practice of veterinary medicine.

Why is the College Considering Changes to this Concept?

The Act currently requires that any individual providing animal care services that relate to veterinary medicine must provide those services under the delegation and supervision of a veterinarian. However, the current reality is that non-veterinarians can, and do, provide therapies and services to animals upon client request and without veterinary oversight. Most of these services fall in the realm of "complementary and alternative medicine" and generally are lower risk activities (e.g. massage therapy, rehabilitation, etc.).

The general discussion on what a profession should or should not protect within its scope of practice is increasingly focused on risk and harm – in this case risk and harm to animals and to public health. In the broader social context, the public realizes that high risk services (e.g. diagnosing illness, prescribing medications, surgery) should only be performed by a licensed veterinarian. On the other hand, the public expects to have direct access to low risk animal services (e.g. massage therapy) without requiring a referral from a veterinarian. These shifts in practice, based on public demand, require careful consideration of real, and not perceived, risk and/ or potential harm.

While Ontario is, and has been, regulating under the premise of exclusive scope of practice for veterinarians, the reality is that there is no definitive definition of the practice of veterinary medicine in the Veterinarians Act, merely a list of a few activities. Over the years, challenges to the current model have come from other professions and trades – chiropractic, homeopathy, ultra-sonographers, trainers, breeders, etc. This confusion about what is and is not the exclusive scope of practice of veterinarians is problematic for the public and the profession. Further, the current model has at times proved difficult to defend with respect to actual unauthorized and risky practice by lay persons.

Commented [A57]: Does the college have a legal opinion as to whether such prosecution is likely to proceed? Is this truly any different than the challenge described in the last paragraph on this page?

Commented [A58]: What the public expects should not drive professional regulation. The best interests of the animals and the clients should be the priority. Is the College arguing that veterinarians are not the best professionals to make these decisions?

Commented [A59]: See comment re first paragraph at the top of this page.

Modernizing the Practice of Veterinary Medicine

SCOPE OF PRACTICE

In recent years, the profession has also observed the strengthening of qualifications for veterinary technicians, and in particular the recognition of the Registered Veterinary Technician (RVT) as having credentials that represent quality and safety in veterinary practice. The growth in numbers of RVT's¹⁰ in the province is a testament to their established place as a qualified team member within the system of veterinary medicine in Ontario.

As animals remain defined as property, owners/clients can and will continue to independently choose a health care provider for animals, as they might do in human health care. The College's focus should be on risks to animals in relation to the intersection between veterinary medicine and what is in the public domain (caveat emptor or buyer beware). However, higher risk choices related to animal health should always be managed by a veterinarian.

The world is not the same as when the Veterinarians Act was introduced in 1989. A model focused on the system of veterinary medicine and on protecting activities that pose the greatest risk of harm to animals is being proposed. The aim is to acknowledge changing public expectation and to balance this with the need for the protection of animals. Strengthening compliance with the scope of practice of veterinary medicine by being clearer about where harm lies, and that both veterinarians and veterinary technicians are accountable in that delivery, is imperative for the future.

Commented [A60]: "Higher risk" is undefinable and subjective. Is this not really a proposal that may have as its effect more suffering by animals at the hands of charlatans?

Commented [A61]: Repeating this does not make it true. Most experienced and competent veterinarians who have been practicing since 1989 know that the world hasn't actually changed that much in terms of the fundamentals and principles of good practice. There may be changes related to sophistication of some available services and procedures, but the foundation of good practice has not changed, and could be, in the right hands, well served and overseen with existing legislation, which is well demonstrated by other professions in Ontario and by other veterinary regulators across the country. The most important factor in any regulatory structure, including even the police, is not the law, but the people responsible for enforcing the law.

Modernizing the Practice of Veterinary Medicine

SCOPE OF PRACTICE

- Exemptions

Existing Provisions

The Veterinarians Act currently prohibits any person, other than a veterinarian, from engaging in the practice of veterinary medicine or holding himself or herself out as engaging in the practice of veterinary medicine. However, there are exemptions for:

- a person who is providing emergency first aid without charging a fee;
- an animal's owner, a member of the owner's household, or a person employed for general agricultural or domestic work by the owner;
- a person who is taking blood samples
- a person who is preventing or treating fish or invertebrate diseases;
- a person who is collecting or using semen for the purposes of a business that engages in the artificial insemination of livestock;
- a person who is collecting or transporting ova and embryos of animals other than mammals;
- a student of veterinary medicine to the extent that the student is engaging in the undergraduate curriculum of studies at the Ontario Veterinary College of the University of Guelph.

What Change is Proposed?

It is proposed that the current exemptions in the Act remain with a change to expand the learner exemption to include students of an accredited veterinary medicine program and students of an accredited veterinary technician program. Further, it is proposed that the existing exemption in (b) above be amended to also exempt a custodian of an animal to administer a treatment plan, made by a veterinarian, and at the direction of the owner.

In addition, the Veterinarians Act would not apply to prevent a person who holds an appropriate certificate of registration from the Ontario College of Pharmacists from compounding and dispensing drugs for, or selling drugs to, the owner of an animal

There would be an additional proposed exemption for:

- An act by a person is not in contravention of the authorized activities section of the Act if the person is exempted by the regulations under this Act

This broad exemption is intended to allow for agility by allowing the creation of exemptions in regulations, such as exemptions for:

1. A person performing an authorized activity under a delegation or order of a veterinarian
2. A member of the College of Chiropractors of Ontario is exempt from the authorized activities section of the Veterinarians Act for the purpose of:
 - a. Moving the joints of an animal's spine beyond the animal's usual physiological range of motion using a fast, low amplitude thrust
 - b. putting a finger beyond the anus for the purpose of manipulating the tailbone

Why is the College Considering Changes to this Concept?

The proposed model has attempted to ensure that it does not unduly restrict the appropriate performance of certain animal care activities by competent individuals who are not veterinarians. The model recognizes that certain classes of non-veterinarians have the

Commented [A62]: Veterinary technicians should be regulated by separate legislation and by a separate regulator and should pay for their own regulation. Veterinarians should not have to pay to regulate technicians. To attempt to regulate both professions with one piece of legislation and regulatory will inevitably lead to conflicts of interest.

Commented [A63]: Only with a prescription from a veterinarian.

Commented [A64]: Arguably, this is permitted now.

Commented [A65]: This is inappropriate at every level. The health of the animal should be evaluated by a licenced veterinarian first.

requisite competence, skills, knowledge, and judgment to perform defined authorized activities, or aspects of them, and clarifies when and how this may be done.

Commented [A66]: Is there any documented evidence that this statement is true?

Modernizing the Practice of Veterinary Medicine

Existing Provisions

The Veterinarians Act currently protects the titles of “veterinarian”, “vétérinaire”, “veterinary surgeon”, and “chirurgien vétérinaire” or an abbreviation or variation thereof as an occupational or business designation for licensed members. Further, a person who is not a licensed member is prohibited from using a term, title or description that will lead to the belief that the person may engage in the practice of veterinary medicine.

What Change is Proposed?

It is proposed that title protection be expanded to include the titles of “veterinary technician” and “Registered Veterinary Technician (RVT)”.

Further, with a move to some animal care services in the public domain and away from an exclusive scope model, the title “doctor (Dr.)” will be protected so that only veterinarians licensed in Ontario can use the term in the course of providing or offering to provide, in Ontario, health care to animals.

An exemption would be provided to permit chiropractors to use the title “doctor (Dr.)” with specific conditions when providing health care to animals. Such conditions would include that a chiropractor must mention that he or she is a member of the College of Chiropractors of Ontario, or identify himself or herself as a chiropractor when describing himself or herself orally using the title “doctor (Dr.)”. When identifying himself or herself in writing using the title “doctor(Dr.)” on a name tag, business card or any document, the member must set out his or her full name after the title, immediately followed by at least one of the following (a) College of Chiropractors of Ontario or (b) Doctor of Chiropractic (DC).

Why is the College Considering Changes to this Concept?

The additions to the title protection provisions acknowledge those professions specifically named within the authorized activities model and are proposed to allow for clarity in roles.

The proposal is aimed at assisting the public in understanding the distinction between doctors of veterinary medicine and other individuals who provide some aspects of animal care.

SCOPE OF PRACTICE

Commented [A67]: Again, there should be separate legislation, separate regulator.

• Title Protection •

Modernizing the Practice of Veterinary Medicine

QUALITY ASSURANCE

- **Mandatory Quality Assurance Program**

Existing Provisions

There are no provisions related to quality assurance in the Veterinarians Act.

What Change is Proposed?

It is proposed that the Veterinarians Act be amended to provide for a mandatory quality assurance program for veterinarians. Key elements of the proposed concept include:

- Provisions related to the powers of the Quality Assurance Committee, which include the power to:
 - require a member to participate in a program designed to assess his or her knowledge, skill and judgment
 - require a member whose knowledge, skill or judgment have been assessed or re-assessed, and found to be unsatisfactory, to participate in remediation activities as defined by the Quality Assurance Committee
 - direct the Registrar to impose or remove terms, conditions or limitations for a specified period on a member's license in certain defined circumstances
- Provisions stipulating co-operation with the Quality Assurance Committee and any advisors it appoints, which would include providing any information requested by the Committee or an advisor.
- Provisions relating to the confidentiality and use of information obtained by the Quality Assurance Committee or its advisors

Why is the College Considering Changes to this Concept?

The Veterinarians Act does not currently have any provisions related to quality assurance. Most professions, including veterinary medicine in North America, speak to at least some elements of continuing competence in legislation.

Mandatory quality assurance has been demonstrated to be an effective regulatory tool to ensure the ongoing quality and safety of professionals in practice in the province and to support them in maintaining competence throughout their careers. A mandatory quality assurance programs for veterinarians would allow quality assurance advisors to collaborate with veterinarians to assess those areas where development of additional knowledge, skills and judgment may be appropriate, and assure veterinarians and the public that veterinarians practise in a manner consistent with the College Standards of Practice. Further, it would provide a positive learning experience and be a useful tool to allow the College to identify and provide support and resources to areas where data demonstrates higher risks to animal care delivery.

Commented [A68]: This would create a huge amount of work for the CVO bureaucrats and hugely increased fees for members. Where is the evidence that it is necessary? Where is this being done regarding veterinarians in other Canadian jurisdictions or regarding other professions in Ontario?

Commented [A69]: Examples, please.

Modernizing the Practice of Veterinary Medicine

INVESTIGATIONS & RESOLUTIONS

• Screening Model •

Existing Provisions

Under the existing investigations and resolutions provisions in the Act, there are two potential “streams” for complaints or issues to be managed. The first is the complaints system which investigates a written complaint. This is a paper review process by the Complaints Committee, which does not have the power to appoint an investigator. Following its review of a written complaint, in addition to written statements from relevant witnesses and/or experts, the Committee issues its decision and reasons, which can be appealed to the Health Professions Appeal and Review Board. The second is a Registrar’s Investigation process, in which information can be brought to the College’s attention through any number of means (such as the police, newspapers, anonymous sources, etc.). Such cases are handled by the Executive Committee, which has the power to appoint an investigator. Upon receipt of the investigator’s report, the Executive Committee reviews the case, and issues a formal written decision. The options for disposition are the same for both Committees – no further action, advice, a caution, a voluntary undertaking, or a referral to the Discipline Committee.

What Change is Proposed?

Under the proposed model, there is to be one triage or intake process which is streamlined and transparent. In effect, the current Complaints and Executive Committees’ roles relating to investigations and resolutions are collapsed into a single committee known as the Investigations and Resolutions Committee. The proposed model allows for an investigator to be appointed in any case as necessary.

Under the proposed model, cases that are considered frivolous and vexatious or outside of the College’s jurisdiction could be dismissed at intake to reduce the inefficient use of resources and reduce delays for high risk cases.

The model proposes the introduction of a mandatory alternative dispute resolution (ADR) process in certain circumstances, such as financial disputes and misunderstandings related to communication.

The model also introduces mandatory education or remediation courses under the Specified Continuing Education or Remediation Program as a potential outcome where remediation is deemed necessary.

The proposed model maintains the arm’s length appeal process of the Health Professions Appeal and Review Board to ensure the accountability of College decision-making related to its members.

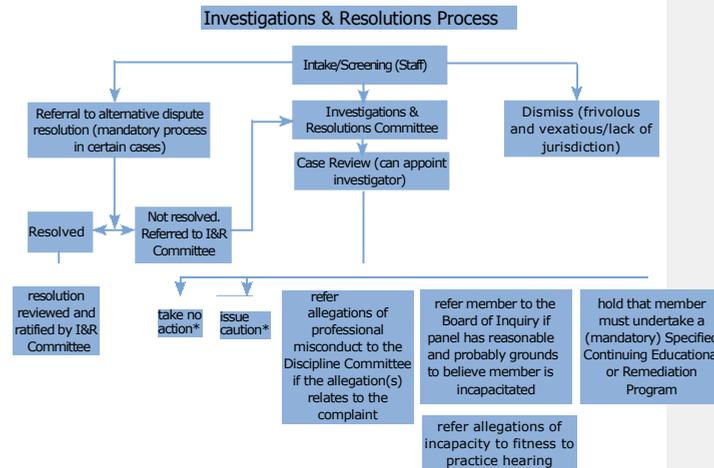
Commented [A70]: This is inappropriate. A member complained against should always have the option of formal regulatory review, along with the court system. Mandatory ADR is currently in the news as it is being used in an abusive way by large corporations against consumers and employees. The potential for abuse of such a provision by the CVO is huge.

Modernizing the Practice of Veterinary Medicine

INVESTIGATIONS & RESOLUTIONS

• Screening Model

The following chart illustrates the proposed single screening model:



* can be appealed to HPARB (only cases that originated as complaints can be appealed to HPARB, not those originating as reports or inquiries).

Why is the College Considering Changes to this Concept?

The current system is cumbersome and confusing with respect to why a specific stream is most appropriate for a particular case. The Complaints Committee's inability to directly appoint an investigator leads to lengthy processing times and public dissatisfaction. Another challenge is the lack of transparency with respect to the Executive Committee stream, as the Executive Committee does not have the power to share information with another party, even if a case originated with a party making a complaint, which was transferred to the Executive Committee stream to ensure a robust investigation.

The proposed screening model eliminates the current model's two distinct streams with different investigative powers, levels of transparency, and appeal processes.

The introduction of mandatory alternative dispute resolution in defined cases will allow for facilitating mediated solutions to a dispute, which contributes to greater satisfaction for several reasons. A solution to a complaint which is crafted by a complainant and the veterinarian involved has been shown to allow for faster resolution, tailored resolutions, increased compliance, and can foster a climate of co-operation and openness even if a voluntary resolution is not reached.

The introduction of the power to require a member to undergo mandatory remediation and educative programs would strengthen the College's powers to undertake remedial solutions where appropriate, and preferable to discipline. Current voluntary undertakings, while at times effective, can only be offered if a discipline hearing is viable in case of an agreement for remediation not being reached. This deters a committee from seeking remediation in cases where it would be a preferable public protection option.

The single screening model aims to reduce the inefficiencies and lack of transparency in the current model and strengthen education and remediation options, while maintaining procedural fairness for all parties.

Commented [A71]: Absolutely not. All decisions should be subject to appeal.

Commented [A72]: It is already within the regulator's power to deal with this by making clear and objective decisions.

Commented [A73]: This appears to be against the principles of natural justice, and consideration should be given to simply abandoning his "stream". Legislative change isn't required to take that step.

Commented [A74]: ADR should never be mandatory. It should only be undertaken if all parties agree.

Commented [A75]: If the hearing isn't "viable", perhaps the complaint is not valid and the veterinarian should be left alone?

Commented [A76]: If public protection was truly necessary, then the discipline process would suffice.

Modernizing the Practice of Veterinary Medicine

INVESTIGATIONS & RESOLUTIONS

Existing Provisions

The Veterinarians Act does not currently include any mandatory reporting provisions. However, this concept is not unfamiliar to veterinarians as they currently have a number of other mandatory reporting obligations under different federal and provincial legislation and regulations, such as the Animal Health Act, the Health Protection and Promotion Act, the Ontario Society for the Prevention of Cruelty to Animals Act, the Controlled Drugs and Substances Act and regulations, and the Health of Animals Act, albeit for different purposes.

What Change is Proposed?

Mandatory reporting is being proposed in circumstances in which a licensed member has reasons to believe that another licensed member is incapacitated or unwell. Circumstances that might justify a mandatory report would be cases where a veterinarian is incapacitated by a physical or mental health condition that impairs his or her ability to provide veterinary care. A report would be made to the College.

The College would then conduct its own investigation. A report would not constitute a finding of incapacity against the member who is the subject of the report. The proposal regarding mandatory reporting includes an immunity provision for reports stating that no action or other proceeding shall be instituted against a person for filing a report in good faith.

Why is the College Considering Changes to this Concept?

The Veterinarians Act does not currently include mandatory reporting provisions related to incapacity.

Members often know specific information about how other members practice which the College and the public are not privy to. From a public trust point of view, substance abuse and other forms of incapacity can be significant and interfere with a veterinarian's ability to practice safe medicine.

Mandatory reporting would be a useful mechanism to manage these issues by alerting the College if there is a concern at an early stage, potentially before an adverse event. Further, it supports efforts to ensure member wellness. Instituting a mandatory reporting system would align with public expectations and assumptions with respect to the College's role in mitigating risk and acting to ensure public protection

Commented [A77]: The potential for massive damage to innocent individuals is huge. Potential abuse includes spousal disputes and competitive disputes. Examples from other jurisdictions and other professions please.

• Mandatory Reporting •

Commented [A78]: Are there past examples of where this would have been helpful. Or, is this another "solution looking for a problem"?

Modernizing the Practice of Veterinary Medicine

INVESTIGATIONS & RESOLUTIONS

- Investigator
Appointments

Existing Provisions

The Veterinarians Act provides that, where the Registrar believes on reasonable ground that a member or former member of the College has committed an act of professional misconduct or serious neglect or that there is cause to refuse to issue or renew or to suspend or revoke a certificate of accreditation, the Registrar may, with the approval of the Executive Committee, appoint one or more persons to investigate the matter.

What Change is Proposed?

With respect to investigator appointments, it is proposed that the Registrar may appoint one or more investigators to determine whether a member has committed an act of professional misconduct or is incompetent if:

- the Registrar believes on reasonable and probable grounds that the member has committed an act of professional misconduct or is incompetent and the Investigations and Resolutions Committee approves of the appointment;
 - the Investigations and Resolutions Committee has received information about a member from the Quality Assurance Committee under the relevant section and has requested the Registrar to conduct an investigation; or
 - the Investigations and Resolutions Committee has received a written complaint about the member and has requested the Registrar to conduct an investigation.
- Further, it is proposed that the Registrar may appoint an investigator in an emergency if the Registrar believes on reasonable and probable grounds that the conduct of the member exposes or is likely to expose his or her patients or clients to harm or injury, and that the investigator should be appointed immediately and there is not time to seek approval from the Investigations and Resolutions Committee.

Why is the College Considering Changes to this Concept?

While the approval process for the Registrar to proceed with an investigation fundamentally remains the same, an additional authority to appoint an investigator has been added for circumstances when the Quality Assurance Committee becomes aware of serious at-risk behaviour by a veterinarian. This latter authority is used rarely, as the Quality Assurance Committee's focus is remediation and support. But when necessary, it is in the public interest to investigate a matter where significant harm may occur.

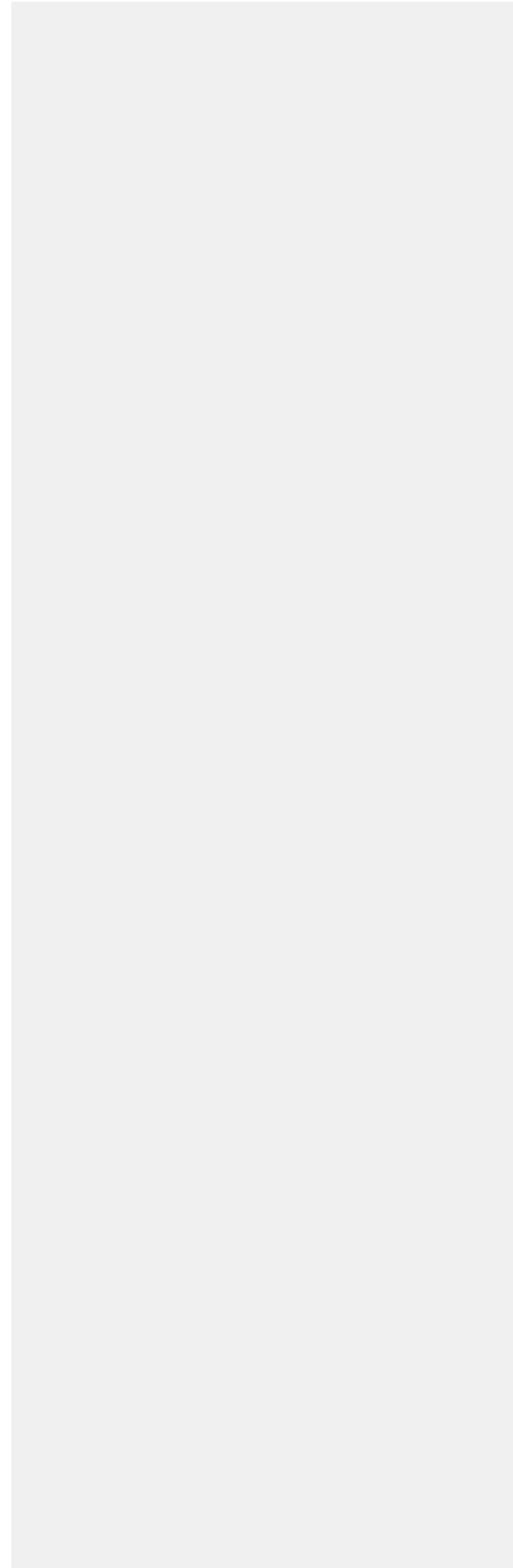
The reasons for appointment related to concerns raised by a Quality Assurance Committee are actually the same as for emergency circumstances. It is anticipated that the need for an emergency investigation will be rare; however, when it is necessary, this authority provides a tool for swift public protection action.

Commented [A79]: Is a Registrar who is not a licenced member qualified to hold this belief?

Commented [A80]: Should there not be only a "one track" form of investigation to the effect that **all** concerns are routed through this committee? That way, a panel of the veterinarian's peers (rather than a non-veterinarian) makes the decision whether to proceed.

Commented [A81]: In this day and age of modern communications, there will always be time to convene the committee.

Commented [A82]: Where is the evidence that this has ever been a concern? Examples, please.



Modernizing the Practice of Veterinary Medicine

Existing Provisions

The Act states that a person appointed to make an investigation “may inquire into and examine the practice of the member or former member in respect of whom the investigation is being made and may, upon production of his or her appointment, enter at any reasonable time the business premises of the member or former member, make reasonable inquiries of any person and examine documents and things relevant to the subject-matter of the investigation.”

What Change is Proposed?

The proposed additions to the existing provisions related to investigator powers include that an investigator:

- i. may inspect or observe the practice of veterinary medicine performed by a member or under the supervision of a member
- ii. may take photographs or make audio or video records relating to the member’s practice of veterinary medicine
- iii. may remove original versions of evidence where necessary (for example, where an original document is necessary to prove tampering or fraud)
- iv. may use any data storage, processing or retrieval device or system used in carrying on business in order to produce information that is relevant to the investigation and that is in any form
- v. may, upon giving a receipt for them, remove for examination and testing and may copy anything relevant to the investigation and testing, including any data storage disk or other retrieval device in order to produce information
- vi. may conduct tests that are reasonably necessary
- vii. may, upon giving receipt for them, require a person to produce any documents, records, equipment, supplies and such other things of the person being investigated that the investigator determines are relevant to the investigation, including using any data storage, processing or retrieval device or system to produce information that is relevant to the inspection and that is in any form, and the person shall produce the things required and provide the assistance.

Why is the College Considering Changes to this Concept?

While the existing provisions in the Act related to investigator powers already provide sufficient breadth to the investigator’s powers, the proposed provisions are intended to ensure that the Act remains current, and clearly and explicitly lays out the investigator’s powers to perform his or her duties effectively. The suggested amendments also acknowledge the technological advances that have taken place since the current Veterinarians Act came into force, and allow for the retrieval of any data

IN
&

Commented [A83]: In following the principles of fundamental justice, any investigator must inform every person that they have a right to legal counsel and confirm that they do not have to answer any questions in the absence of legal counsel. Further, “reasonable” here is a pseudonym for “fishing”. Inquiries must relate directly and only to a specific complaint.

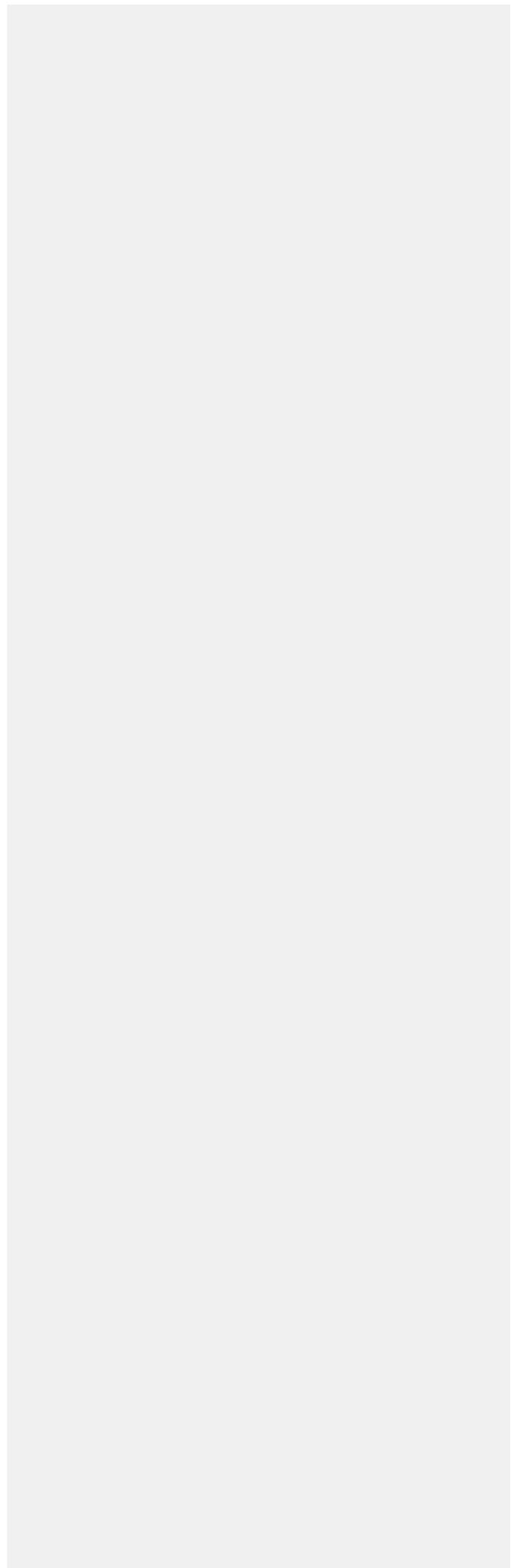
• Investigator Powers •

Commented [A84]: This statement is self-explanatory. No change is required.

Commented [A85]: These specific powers are intrusive, unnecessary and intimidating. Would the CVO staff agree that a member’s lawyer can come into the CVO office at any time and observe (and record) CVO staff as they work and make “reasonable” inquiries without informing CVO staff of their right to legal counsel?

Commented [A86]: “Current” with what? New rules created without legislators’ oversight?

storage, processing or retrieval device or system to produce information that is relevant to an investigation.



Modernizing the Practice of Veterinary Medicine

INVESTIGATIONS & RESOLUTIONS

- **Interim Suspensions**

Existing Provisions

The Veterinarians Act currently includes interim suspension provisions related to matters of incapacity or wellness. More specifically, under the Act, a Board of Inquiry (appointed by the Executive Committee) may require a licensed member to submit to physical and mental examinations by a qualified person, and if the licensed member refuses or fails to submit to such examinations, the Board of Inquiry may order that the licensed member's licence be suspended until he or she complies.

In addition, when a Board of Inquiry reports its findings to the Executive Committee and if the Executive Committee refers the matter to the Registration Committee to hold a hearing, the Executive Committee may suspend the licensed member's licence until the determination of whether or not the licensed member is impaired becomes final.

There are currently, however, no parallel provisions in the Veterinarians Act related to interim suspensions when a case is referred to the Discipline Committee.

What Change is Proposed?

It is proposed that within the authorities of a newly constituted Investigations and Resolutions Committee, the committee be permitted to make an interim order directing the Registrar to suspend or impose terms, conditions or limitations on a member's licence if:

- (a) it is of the opinion that the conduct of the member exposes or is likely to expose any animal(s) or his or her client(s) to serious harm or injury; and
- (b) an allegation has been referred to the Discipline Committee.

If such an order is made, the College must prosecute the matter expeditiously and the Discipline Committee must give precedence to the matter.

It is also proposed that an interim suspension may not be made unless the member has been given notice of the Committee's intention to make the order and provided time to make written submissions to the Committee. In extraordinary circumstances an interim suspension may be made without notice to the licensed member, if there are reasonable and probable grounds to believe that urgent intervention is needed.

Commented [A87]: The member must be able to challenge his immediately in superior court.

Commented [A88]: The member must be able to challenge his immediately in superior court, and the CVO cannot complain if the challenge is "ex parte", without further notice to them.

Why is the College Considering Changes to this Concept?

Provisions related to interim suspension allow for an agile response where a member's conduct presents a serious risk and exposes, or is likely to expose, his or her client(s) or any animal(s) to harm or injury. The College has encountered cases, albeit infrequently, that may have benefitted from an interim suspension option, and the inability to act permitted a public risk to continue until the conclusion of a hearing, usually a period of several months.

This authority is important for the College to have and to exercise in rare and extraordinary cases where it is warranted for the protection of the public.

Modernizing the Practice of Veterinary Medicine

INVESTIGATIONS & RESOLUTIONS

- Interim
Suspensions •

Commented [A89]: Again, his appears to be a code word for "without appropriate elected provincial legislators' oversight".

Commented [A90]: If the College truly believed that this was the case, it could have gone immediately to superior court for the appropriate injunction. The fact that it didn't indicates the weakness of his argument.

Modernizing the Practice of Veterinary Medicine

INVESTIGATIONS & RESOLUTIONS

- Publicizing Notices of Hearings

Existing Provisions

Under the current provisions of the Veterinarians Act, the College is not permitted to publish members' names until there is a discipline finding. As a result, the College cannot publicize a notice of hearing, nor a member's name prior to a hearing.

What Change is Proposed?

It is proposed that hearings of the Discipline Committee and the Accreditation Committee, which are already open to the public, will be clearly made known prior to a hearing.

Information concerning a hearing by a panel of the Discipline Committee or the Accreditation Committee will be publicly available at least 30 days before the intended date of the hearing. The information will include the name of the member against whom allegations have been made, the intended date, time and place of the hearing and a summary of the allegations against the member.

Exclusion of public

The panel may make an order that the public be excluded from a hearing or any part of it if the panel is satisfied that:

- matters involving public security may be disclosed;
- financial or personal or other matters may be disclosed at the hearing of such a nature that the harm created by disclosure would outweigh the desirability of adhering to the principle that hearings be open to the public;
- a person involved in a criminal proceeding or in a civil suit or proceeding may be prejudiced; or
- the safety of a person may be jeopardized.

Orders preventing public disclosure

In situations in which the panel makes an order excluding the public from a hearing, the panel may make orders it considers necessary to prevent the public disclosure of matters disclosed at the hearing, including orders banning the publication or broadcasting of those matters.

Why is the College Considering Changes to this Concept?

The lack of transparency related to the current provisions in the Act is not in keeping with more modern legislation nor with Ontario's legal system. Further, it does not allow interested parties to be aware of, nor attend, hearings which may concern them. Not allowing for public hearings may lead to the appearance of bias and secrecy on the part of the regulator. The new proposed provisions relating to hearings would modernize the Act, ensure that it is in line with other professions, and allow for increased transparency.

Commented [A91]: This is an attempt at public shaming, and will likely be used to intimidate a member to "settle" if the CVO promises not to publish.

Commented [A92]: This would be the same as a police force and prosecutors making public what they think is criminal evidence before a trial. Again, public shaming and intimidation.

Commented [A93]: What other Canadian veterinary regulators have done this? What other Ontario professional regulators have done this?

Commented [A94]: Examples please, of such legislation.

Modernizing the Practice of Veterinary Medicine

INVESTIGATIONS & RESOLUTIONS

- **Expanded Public Register** •

Existing Provisions

The Act currently requires that a register be kept by the College which includes:

- (a) the name of every person to whom a licence is issued;
- (b) any designation of a member of the College as a specialist and any withdrawal of recognition of the member's specialist status;
- (c) any conditions or limitations imposed on a licence by a committee;
- (d) any revocation, suspension, cancellation or termination of a licence;
- (e) the fact and amount of a fine imposed by the Discipline Committee and the fact of a reprimand by the Discipline Committee, unless the Discipline Committee directs that no entry be made;
- (f) where an entry results from a decision of a committee, the name of the committee that made the decision and any finding of the committee resulting in the entry;
- (f.1) information that a member of the College consents to be entered in a register;
- (g) the date of the decision or order that results in an entry under this subsection; and
- (h) any other information authorized to be entered by the regulations.

What Change is Proposed?

It is proposed that the Act be amended to require that the following additional matters be placed on the public register:

- Notice of accreditation and discipline hearings and related allegations prior to the holding of the hearing (see page 34),
- The presence of any remedial undertaking, and its requirements, and
- The presence of any criminal charges/convictions/bail conditions reported at annual licensure

Why is the College Considering Changes to this Concept?

The public expects and requires information from regulators that is relevant to them to make informed choices and to trust that self-regulation works effectively. The College recognizes that such publication must be balanced by fairness and privacy with respect to members as required.

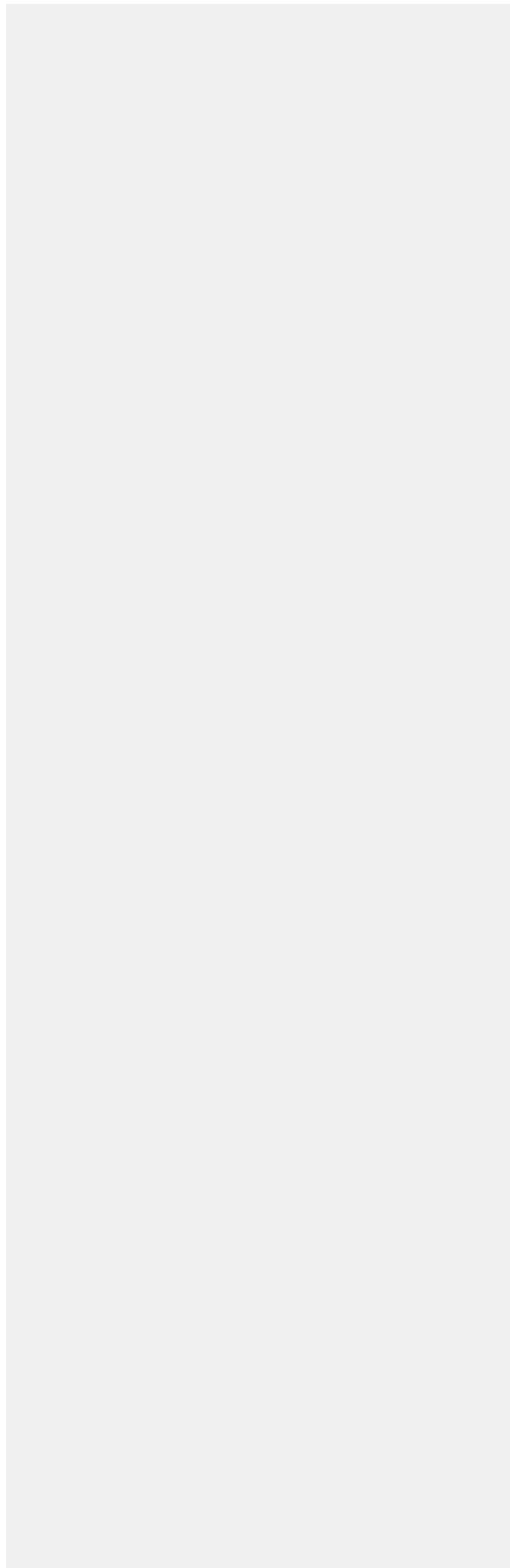
Taking steps to increase the amount of transparency with respect to the College's public register would be in the public interest by allowing for greater public protection. Criminal charges and convictions are already public information. Consolidating the information proposed above on the public register would allow members of the public to be able to obtain a full and

Commented [A95]: Will this information, as it applies to CVO staff, be provided to CVO members?

Commented [A96]: Is there objective evidence that regulation of veterinarians (other than the case of Dr. Rekhi) is a significant public concern? And again, why did the CVO not contact the OSPCA and the police about Dr. Rekhi?

Commented [A97]: Is there objective evidence that "greater public protection" is required?

relevant history of a licensed member in one place, and assist in making informed decisions about a veterinarian



Modernizing the Practice of Veterinary Medicine

ADMINISTRATIVE AMENDMENTS

- Confidentiality and Immunity

Existing Provisions

The confidentiality provisions in the Veterinarians Act provides that individuals engaged in the administration of the Act must preserve confidentiality with respect to all matters related to his or her duties, employment, examination, review or investigation, except for defined exemptions. These exemptions include circumstances in which the person to whom the information relates has provided consent or where permitted by law.

Further, it provides that no person to whom the above section applies shall be required to give testimony or to produce any document or thing in any action or proceeding about information obtained during his or her duties, employment, examination, review or investigation except in a College-related proceeding.

There is also a robust provision for immunity where a decision is made in good faith by the College, the Council, a committee of the College or a member of the Council or a committee of the College, or an officer, employee, agent or appointee of the College.

The provisions also include a section related to the indemnification of members of the Council or a committee of the College and every officer and employee of the College out of the funds of the College against all costs, charges and expenses incurred in relation to an action or proceeding related to the execution of his or her duties unless brought about by willful neglect or default.

What Change is Proposed?

It is proposed that the confidentiality provision of the Veterinarians Act be updated to include more exceptions to the duty of confidentiality, including disclosure of confidential information to a police officer, to advise whether the College is investigating a member, if there is a compelling public interest in the disclosure of that information, and if there are reasonable grounds to believe that the disclosure is necessary for the purpose of eliminating or reducing a risk of harm to a person or animal or group of persons or animals. An amendment is also proposed to the confidentiality provision that would prevent evidence generated under a College proceeding to be able to be used in a civil proceeding.

It is also proposed that the wording of the immunity provision should be broadened to include committee panels.

Further, it is recommended that the indemnity provisions in the Act should be moved to by-law.

Why is the College Considering Changes to this Concept?

Modernizing and updating the confidentiality provisions to be more explicit and clear about whom the provisions relate to would be in line with the direction in which regulated professions are generally moving. More importantly, it would allow for greater transparency where appropriate and in the public interest.

The proposed amendment preventing evidence generated under a College proceeding to be able to be compelled in a civil proceeding would help to avoid duplicative and costly civil proceedings outside the regulatory framework, and would also help to avoid parties using College proceedings to gather evidence for civil proceedings.

Lastly, indemnity is generally addressed in the by-laws of many other similar legislation related to professional regulation, and this allows for greater flexibility and agility since by-laws are easier to change than statutes. This flexibility would

Commented [A98]: Compared to what?

Commented [A99]: Where is the evidence that this is needed? Such changes inevitably would lead to "lawyering up", increasing conflict and hugely increasing CVO expenses and member expenses.

Commented [A100]: Where is the evidence that this is needed?

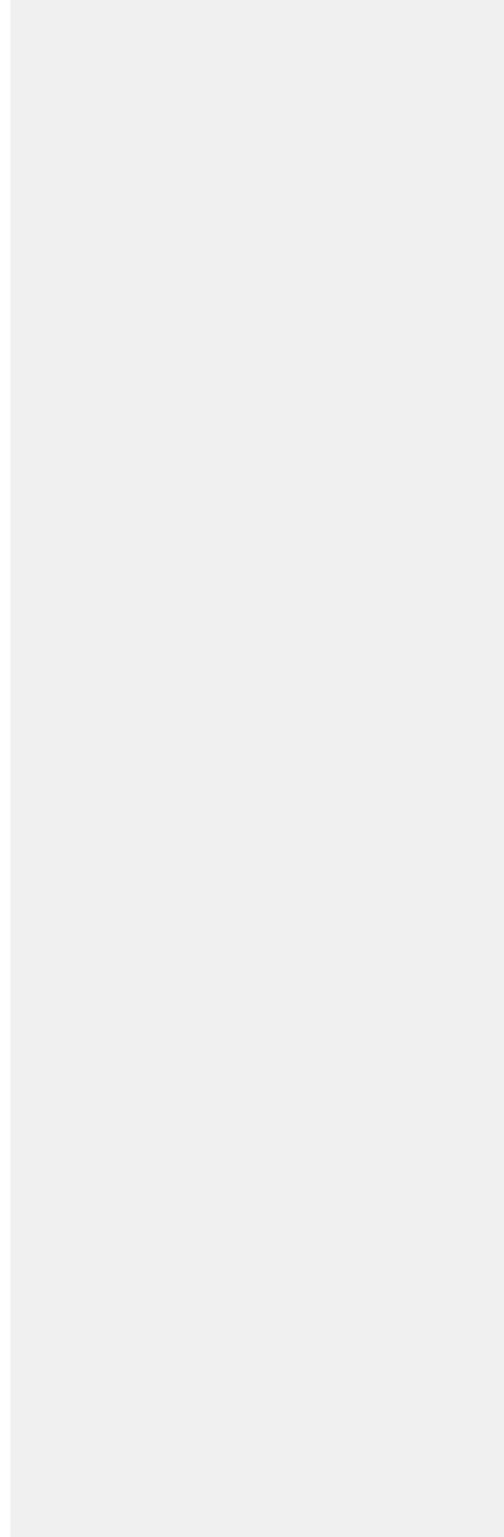
Commented [A101]: Absolutely not. This is a major public policy concern, can easily involve 6 or 7 figure liability, and should be dealt with only by elected provincial legislators.

Commented [A102]: Again, how is this "updating"?

Commented [A103]: Again, where are examples of other professions in Ontario and from other veterinary regulators in Canada?

Commented [A104]: Specific examples please. Further, should the concern not be for the regulated professionals who could be harmed by inappropriate regulator behaviour, rather than what would be the insurance premiums for payouts for inappropriate behaviour?

be important when accounting for terms of third-party insurance plans that may change and affect the indemnification coverage set out in a statute



Modernizing the Practice of Veterinary Medicine

Existing Provisions

The College of Veterinarians of Ontario currently holds an annual general meeting at which members consider and accept a report of Council, accept the auditor's financial statements, appoint an auditor, and hold a member's forum. Within the Veterinarians Act, annual general meetings are linked to provisions from the Corporations Act.

What Change is Proposed?

It is proposed that the sections in the Act that list the provisions in the Corporations Act that apply in respect of the College be repealed and a provision stating that the Corporations Act does not apply in respect to the College be added. This would necessitate several amendments to the Act to address those provisions which are still relevant through the College's bylaws, ensuring that appropriate accountability is still in place.

The Veterinarians Act should be amended to read "The College of Veterinarians of Ontario is a body corporate with all the powers of a natural person." (A proposal to allow the Minister of Agriculture, Food and Rural Affairs the ability to review and/or investigate the affairs or management of the College and audit the books has also been included, see page 15). In order to permit the passing of bylaws that would be necessary if the Corporations Act no longer applies, a number of bylaw-making powers have been added (see Appendix C).

Why is the College Considering Changes to this Concept?

It is not common for regulators to hold annual general meetings of members, although associations do. It is likely that this provision is a remnant from the period during which the College was the Ontario Veterinary Association, and was both a regulator and an association. 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. However, to provide public assurance of accountability of Council, several new provisions are placed in bylaw (see Appendix C).

ADMINISTRATIVE AMENDMENTS

- **Annual General Meetings**

Commented [A105]: Examples please, of the truth of this statement.

Commented [A106]: This appears to propose clearly the end of self-regulation of the profession. If members don't have decision-making authority, then veterinary medicine in Ontario is no longer a self-regulating profession and the pretense that it is should be dropped. Why would the members continue to shoulder the enormous cost of operating the CVO? Just give regulation over to the government. With this step, on a practical basis, the CVO would no longer be accountable to anyone.

Modernizing the Practice of Veterinary Medicine

ADMINISTRATIVE AMENDMENTS

- **Offences and Fines**

Existing Provisions

The provisions in the Act related to offences and fines are lengthy. For a comprehensive list of the current provisions, please see Appendix D.

What Change is Proposed?

The proposed amendments to the offences and fines provisions in the Act include updating and modernizing the amount of the fines in the Veterinarians Act. Further, a number of new provisions are proposed, such as including fines for corporate employers to reflect the realities of current practice, fines for contravening the proposed mandatory reporting provisions, fines for not cooperating with an investigator or adviser, and an amendment to the unauthorized practice provisions to reflect the proposed changes to the scope of practice model, namely the introduction of authorized activities.

For a full list of the proposed provisions, please see Appendix D. **Why is the College Considering Changes to this Concept?**

It is proposed that the outdated fine amounts related to contravention of offences be adjusted and updated to act as a current and effective deterrent against violating the provisions in the Act. In addition, several new offences and fines have been proposed to link to new proposed provisions in the Act, to align the Act with more modern legislation, and to update and strengthen the implementation and enforcement of the Act.

Commented [A107]: This would have huge potential for abuse. Members should interact with the CVO on advice from legal counsel. There are no fines for not cooperating with the police, or for not responding until legal counsel has been consulted or for not cooperating with an adversary in a civil dispute.

Commented [A108]: There is **no evidence** that there are any problems with implementation and enforcement that are caused by inadequate legislation.

Conclusion

The Council of the College of Veterinarians has taken the initiative to examine its governing legislation, and to identify areas in need of modernization, amendment, and improvement. The work of the College's legislative reform working groups, which undertook evidence-based and risk-focused analyses of all aspects of the legislation, has taken societal expectations into account in all stages of the project, keeping in mind the College's mandate of protecting the public interest. This initiative has resulted in the proposed concepts in this paper.

The proposed concepts are focused on enhancing regulatory transparency, flexibility, accountability, and efficiency.

The aim is to achieve government support for the reform of the Veterinarians Act that will secure a new and robust template for the effective regulation of veterinary medicine on behalf of the Ontario public for years to come.

Modernizing the Practice of Veterinary Medicine

Commented [A109]: There is unfortunately no evidence presented in this paper.

CONCLUSION

References

Legislation

American Association of Veterinary State Boards Veterinary Medicine and Veterinary Technology Practice Act Model with Comments, 2014
Chiropractic Act, 1991, S.O. 1991, c. 21 and regulations
Dentistry Act, 1991, S.O. 1991, c. 24 and regulations
Medicine Act, 1991, S.O. 1991, c. 30 and regulations
Nursing Act, 1991, S.O. 1991, c. 32 and regulations
Occupational Therapy Act, 1991, S.O. 1991, c. 33 and regulations
Pharmacy Act, 1991, S.O. 1991, c. 36 and regulations
Physiotherapy Act, 1991, S.O. 1991, c. 37 and regulations
Regulated Health Professions Act, 1991, S.O. 1991, c. 18 and regulations
Veterinarians Act, R.S.O. 1990, c. V.3
Veterinary Profession Act, RSA 2000 Chapter V-2 and regulations

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Kerm Henriksen and Elizabeth Dayton, "Organizational Silence and Hidden Threats to Patient Safety," Health Serv Res. 2006 Aug; 41(4 Pt 2): 1539-1554
Pharmacy Connection, Mandatory Reporting, Summer 2013
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Professional Standards Authority, "Right Touch Regulation," August 2010
Professional Standards Authority, "Right Touch Regulation Revised," October 2015
Public Policy Decision Tree, Adapted from Council on Healthcare Regulatory Excellence (CHRE)
Review of the Ontario College of Teachers Intake, Investigation and Discipline Procedures and Outcomes and the Dispute Resolution Program, the Honourable Patrick J. LeSage, C.M., O.Ont., Q.C., MAY 31, 2012
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Alberta Veterinary Medical Association, Guidelines for the Roles of Registered Veterinary Technologists, Students, and Unregistered Auxiliaries
College of Nurses of Ontario, Mandatory Reporting: A Process Guide for Employers, Facility Operators and Nurses
College of Nurses of Ontario, Practice Guideline: Authorizing Mechanisms
College of Nurses of Ontario, RHPA: Scope of Practice, Controlled Acts Model
College of Physicians and Surgeons of Ontario, Delegation of Controlled Acts policy
College of Physicians and Surgeons of Ontario, Mandatory and Permissive Reporting
Ontario College of Pharmacists, Mandatory Reporting policy
Ontario College of Pharmacists, Medical Directives and the Delegation of Controlled Acts, 2014

Background and Research Documents

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Alberta Veterinary Medical Association Delegation Model
Alternative Dispute Resolution Models of Regulators
College of Nurses Complaints Process Flow Chart
College of Physicians and Surgeons of Alberta, Complaints Process Chart
College of Veterinarians of Ontario Analysis Paper - Just Culture
Distinctions Between Professions' Definitions and Activities
Fact Sheet: Mandatory Mediation under Rules 24.1 and 75.1 of the Rules of Civil Procedure
Introduction of Definitions of the Practice of Veterinary Medicine and the Practice of Other Regulated Professions in Legislation
Investigator Appointments and Investigator Powers of Regulators
Mandatory Reporting Obligations of Regulators
New Graduate Transition to Practice Programs of Regulators
Policies of Regulators Related to Changing Scope of Practice
Policies of Regulators Related to Re-Entering the Profession Following a Lengthy Absence
Potential Risks in Practice
Pharmacy Technician Delegation Model (Ontario)
Quality Assurance Provisions in the Regulations and Bylaws of Veterinary and Non-Veterinary Regulators
Registered Practical Nurse Model (Ontario)
Report of the OAVT Legislative Task Force: Legislative Modernization to Achieve a Scope of Practice for Registered Veterinary Technicians in Ontario
Restricted Scope of Practice/Controlled Acts: Legislative Overview of Regulators
Screening Mechanisms of Regulators

Public Consultations

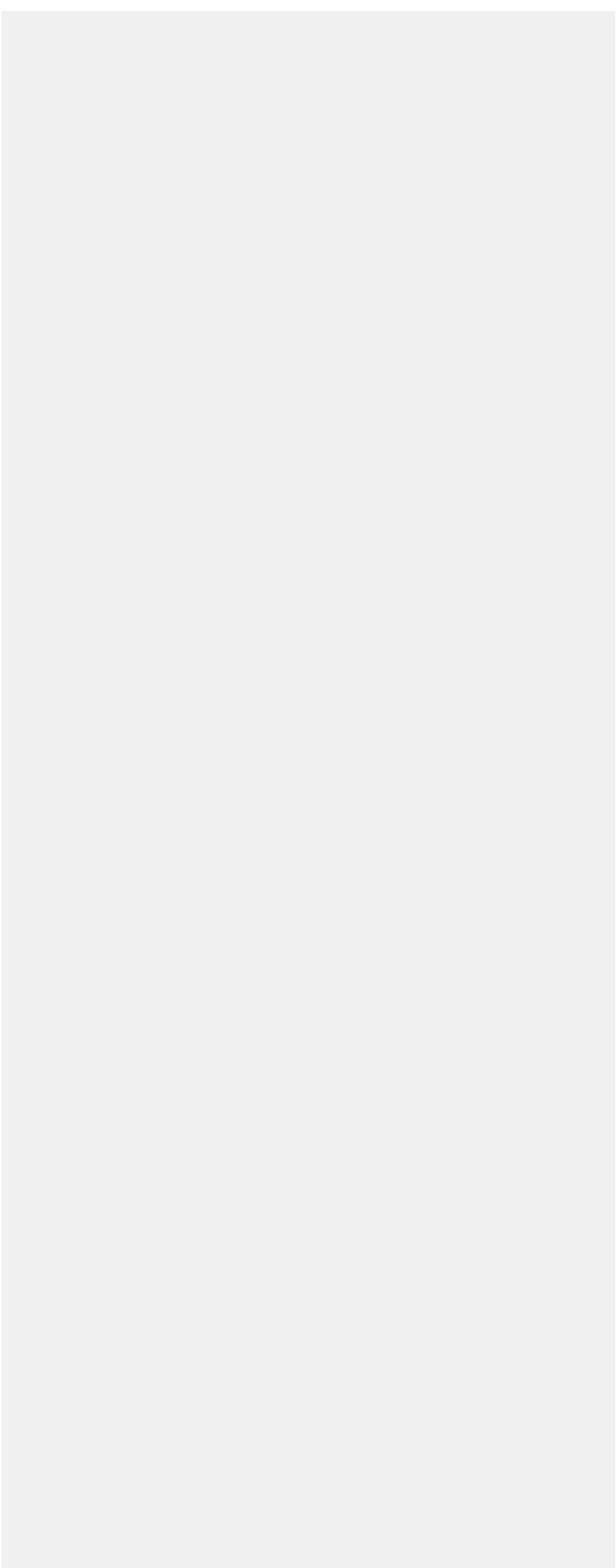
Consultations were completed on the following legislative reform concepts:

- Mandatory Quality Assurance Program
- Single Screening Process
- Expanded Public Register
- Mandatory Reporting of Dismissal or Resignation Related to Incompetence or Incapacity of a Member
- Interim Suspensions
- Publicizing a Notice of Hearing
- Objects of the College
- Scope of Practice Model

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Endnotes

- 1 Veterinarians Act, R.S.O. 1990, c. V.3
- 2 R.R.O. 1990, Reg. 1093: General under Veterinarians Act, R.S.O. 1990, c. V.3
- 3 College of Veterinarians of Ontario, 2016 Annual Report, <http://cvo.org/CVO/media/College-of-Veterinarians-of-Ontario/Resources%20and%20Publications/Annual%20Reports/AnnualReportFinal.pdf?ext=.pdf>
- 4 Professional Standards Authority, Right-Touch Regulation Revised, <http://www.professionalstandards.org.uk/docs/default-source/publications/thought-paper/right-touch-regulation-2015>
- 5 David Marx, "Patient Safety and the "Just Culture": A primer for health care executives," 2001, <https://psnet.ahrq.gov/resources/resource/1582/patient-safety-and-the-just-culture-a-primer-for-health-care-executives>; North Carolina Board of Nursing, "Just Culture Overview," <http://www.ncbon.com/dcp/i/discipline-compliance-employer-complaints-just-culture-resources>
- 6 An order is an instruction for the performance of a procedure, treatment, drug or intervention. An order can be a direct order to perform an authorized activity for only one patient for a specific intervention or a medical directive, which is a written order authorizing those identified in the directive to perform an authorized activity for any patient who meets the criteria, circumstances, and/or conditions set out in the medical directive.
- 7 To initiate an authorized activity means to independently decide that a specified procedure is required and initiate that procedure in the absence of a specific order or medical directive, in accordance to certain conditions, which can be identified in regulation
- 8 Substance is inclusive of a drug
- 9 It is anticipated that this schedule will be drafted at a later date
- 10 There are currently 3200 RVT's in Ontario, an increase from 1200 in 2007



Appendix A

Concept	Current Provisions	Proposal
Objects of the College	<p>The Veterinarians Act states¹ that the principal object of the College is to “regulate the practice of veterinary medicine and to govern its members in accordance with this Act, the regulations and the by-laws in order that the public interest may be served and protected.”</p> <p>It further states that the College has the following additional objects:</p> <ol style="list-style-type: none"> 1. To establish, maintain and develop standards of knowledge and skill among its members. 2. To establish, maintain and develop standards of qualification and standards of practice for the practice of veterinary medicine. 3. To establish, maintain and develop standards of professional ethics among its members. 4. To promote public awareness of the role of the College. 5. To perform such other duties and exercise such other powers as are imposed or conferred on the College under any Act. 	<p>It is proposed that the provision of the Act relating to the purposes of the College be updated to also include the following objects:</p> <ol style="list-style-type: none"> 1. To develop, establish, and maintain programs to assure the quality of the practice of the profession. 2. To develop, establish, and maintain standards and programs to promote the ability of members to respond to changes in practice environments, advances in technology and other emerging issues. 3. To inspect and accredit veterinary facilities. 4. Any other objects relating to the practice of veterinary medicine that Council considers desirable.
Council composition	<p>The Veterinarians Act states² that the Council shall be composed of:</p> <ul style="list-style-type: none"> • Between nine and fifteen elected members who are licensed veterinarians; and • Between three and five persons are not members of the governing body of a self-regulating licensing body under any other Act or licensed under the Veterinarians Act and who are appointed by the Lieutenant Governor in Council. 	<p>The following Council composition is proposed:</p> <ul style="list-style-type: none"> • Between ten and twelve elected members who are licensed veterinarians; • Between seven and nine members appointed by government who meet the same requirements as above; and • One member who is a licensed veterinarian and who holds a faculty position at the Ontario Veterinary College.

Commented [A110]: There is no evidence that any of these are required. 4. is effectively a blank cheque for the CVO, and is particularly offensive.

Commented [A111]: No. The public members should be there to express an outsider's view, but should not be in a position to decide a vote.

¹ Veterinarians Act, R.S.O. 1990, c. V.3, s 3.

2 Veterinarians Act, R.S.O. 1990, c. V.3, s 4(2)

Concept	Current Provisions	Proposal
Statutory Committees and Panel Composition	<p>The Veterinarians Act establishes the following committees³:</p> <ol style="list-style-type: none"> 1. Executive Committee. 2. Accreditation Committee. 3. Registration Committee. 4. Complaints Committee. 5. Discipline Committee. <p>For the purpose of panel composition, the following provisions are in place:</p> <ul style="list-style-type: none"> • With respect to the Complaints Committee, a shall be composed of at least three members of the committee, at least one of whom is a person the Lieutenant Governor in Council has appointed to the Council, to consider and investigate a complaint⁴. • With respect to the Discipline Committee, a panel shall be composed of at least three members of the committee, at least one of whom is a person the Lieutenant Governor in Council has appointed as a member of the Council and at least one of whom is a person who is both a member of the College and a member of the Council⁵. 	<p>It is proposed that the following statutory committees would be prescribed by statute:</p> <ul style="list-style-type: none"> • Executive Committee • Investigations and Resolutions Committee • Discipline Committee • Registration Committee • Quality Assurance Committee • Accreditation Committee <p>For the purpose of panel compositions, the following compositions are proposed:</p> <ul style="list-style-type: none"> • With respect to the Discipline Committee, a panel shall be composed of at least three and no more than five members of the committee, at least one of whom shall be a public member and at least one of the members of a panel shall be both a member of the College and a member of the Council. • With respect to panel composition for any other relevant committee, each panel shall be composed of at least three members of the committee, at least one of whom shall be a public member

Commented [A112]: Not necessary. Covered by Accreditation Committee.

Commented [A113]: No. This just makes it more likely that Council members will end up in conflict of interest situations. This also appears to be an attempt to steer extra compensation payments to Council members.

³ Veterinarians Act, R.S.O. 1990, c. V.3, s 10.

⁴ Veterinarians Act, R.S.O. 1990, c. V.3, s 23.

5 Veterinarians Act, R.S.O. 1990, c. V.3, s 28.

Concept	Current Provisions	Proposal
Ministerial Powers	<p>The Veterinarians Act provides⁶ that the Minister's powers include the power to:</p> <p>(a) review the activities of the Council;</p> <p>(b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;</p> <p>(c) advise the Council with respect to the implementation of this Act and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures;</p> <p>(d) request the Council to make, amend or revoke regulations respecting any matter under section 7 or the standards for veterinary facilities established under section 8.</p>	<p>It is proposed that the updated provision of the Act relating to Ministerial powers include the following additional powers:</p> <ul style="list-style-type: none"> • The Minister (namely, the Minister of Agriculture, Food and Rural Affairs) may review and/or investigate the affairs or management of the College and audit its finances. • Consultation with the Minister and the Minister of Advanced Education and Skills Development is required before the Council establishes or amends the academic qualifications of applicants for licensure. • The Minister may pay the College for expenses incurred in complying with a requirement under a provision related to the Powers of the Minister. • The Lieutenant Governor in Council would have the ability to appoint a person as a College Supervisor, on the recommendation of the Minister, where the Minister considers it appropriate or necessary, with a specified parameter of assignment, notice provided, and written submissions by the College allowed. Unless the appointment provides otherwise, a College Supervisor has the exclusive right to exercise all the powers of a Council and every person employed, retained or appointed for the purposes of the administration of this Act. The Lieutenant Governor in Council may specify the powers and duties of a College Supervisor and the terms and conditions governing those powers and duties.

6 Veterinarians Act, R.S.O. 1990, c. V.3, s 6.

Concept	Current Provisions	Proposal
Regulation and Bylaw Making Powers	Please refer to Appendix C	Please refer to Appendix C
Scope of Practice	The Veterinarians Act states that the practice of veterinary medicine “includes the practice of dentistry, obstetrics including ova and embryo transfer, and surgery, in relation to an animal other than a human being.”	<p>Definition</p> <p>The practice of veterinary medicine is the assessment of the physiological behavioural status of an animal or group of animals and the diagnosis, treatment, prevention, and/or control of any condition, disease, disorder or dysfunction.</p> <p>Authorized Activities</p> <p>The following is a list of proposed activities which would be legislatively authorized to veterinarians; this means that only a veterinarian can perform these activities independently, or delegate them to someone (regulated or unregulated) who is not authorized but is deemed competent by the veterinarian to perform them, as long as delegation is not prohibited. Under delegation, the veterinarian remains responsible for the supervision and outcome of the activity.</p> <p>The list of authorized activities includes:</p> <ol style="list-style-type: none"> 1. Making or communicating a diagnosis identifying a disease, disorder, dysfunction or condition as the cause of an animal’s signs and 2. Performing a medical assessment to determine the fitness for purpose or soundness of an animal, or group of animals, on which it is reasonably foreseeable that a person or organization will rely on the assessment. 3. Ordering laboratory tests on an animal or on specimens taken from an 4. Prescribing, compounding, dispensing, or selling a drug 5. Performing a procedure on tissue below the dermis 6. Performing a procedure below the surface of a mucous membrane 7. Performing a procedure on or below the surfaces of the teeth, including the scaling of teeth and occlusal equilibration 8. Performing a procedure on or below the surface of the cornea 9. Setting, immobilizing, or casting a fracture of a bone or a dislocation of a joint or a severed tendon 10. Administering a substance by injection or inhalation, or monitoring of 11. Moving the joints of the spine beyond the animal’s usual physiological range of motion using a fast, low amplitude thrust 12. Putting an instrument, arm, hand, or finger, <ol style="list-style-type: none"> i. beyond the external ear canal, ii. beyond the point in the nasal passages where they normally narrow, iii. beyond the larynx, iv. beyond the opening of the urethra, v. beyond the labia majora, vi. beyond the anus or cloaca, or vii. into any other natural or artificial opening into the body

Commented [A114]: No. This will open the floodgates on administrative and civil litigation regarding unauthorized practice. The current definition is fine.

Commented [A115]: These are all good examples of where assessing facts could be problematic, along with the issue of the wrongdoer’s “belief” that they weren’t breaking the law.

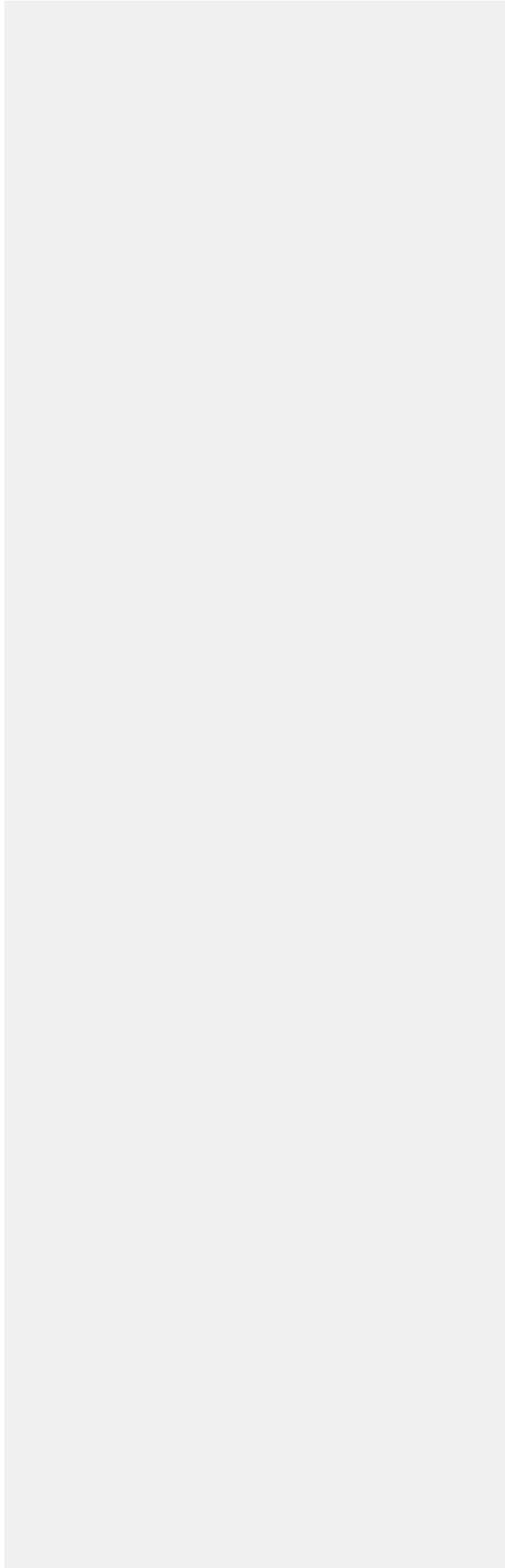
Concept	Current Provisions	Proposal			
Scope of Practice		<p>13. Applying or ordering the application of a form of energy prescribed by the regulations under this Act</p> <p>14. Performing upon an animal any manual procedure for the diagnosis and/or treatment of pregnancy, sterility, or infertility</p> <p>15. Performing allergy testing</p> <p>There will be restrictions in regulation that do not permit the delegation of the following activities by a veterinarian:</p> <ul style="list-style-type: none"> • Making a diagnosis identifying a disease, disorder, dysfunction or condition as the cause of an animal's signs and presentation • Performing a medical assessment to determine the fitness for purpose or soundness of an animal, or group of animals, on which it is reasonably foreseeable that a person or organization will rely on the assessment • Ordering laboratory tests on an animal or on specimens taken from an animal • Prescribing a drug • Setting a fracture of a bone or dislocation of a joint or setting, immobilizing, or casting a severed tendon • Moving the joints of the spine beyond the animal's usual physiological range of motion using a fast, low amplitude thrust • Ordering the application of a form of energy prescribed by the regulations under this Act • Performing upon an animal any manual procedure for the diagnosis of pregnancy, sterility, or infertility <p>Subset of Activities Authorized to Veterinary Technicians</p> <p>The following is a list of subsets of authorized activities (alongside the authorized activities that they fall under) that veterinary technicians are authorized to perform, either under an order from a veterinarian, or by initiation.</p>			
			Activities Authorized to Veterinarians	Subset of Activities Authorized to Veterinary Technicians	Authority
		1.	Making or communicating a diagnosis identifying a disease, disorder, dysfunction or condition as the cause of an animal's signs and presentation	Triaging emergency patients	Initiate
		4.	Prescribing, compounding, dispensing, or selling a drug	Preparing a drug for the purpose of dispensing a drug	Order
5.	Performing a procedure on tissue below the dermis	Collecting specimens for diagnostic tests Placing IV catheter for emergency purpose Placing IV catheter for therapeutic purpose	Order Initiate Order		

Scope of Practice

Concept	Current Provisions	Proposal
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	Activities Authorized to Veterinarians	Subset of Activities Authorized to Veterinary Technicians	Authority
7.	Performing a procedure on or below the surfaces of the teeth, including the scaling of teeth and occlusal equilibration	Performing dental prophylaxis, inclusive of scaling and occlusal equilibration	Order
8.	Performing a procedure on or below the surface of the cornea	Collecting specimens Performing tests on the surface of the cornea	Order Order
9.	Setting, immobilizing, or casting a fracture of a bone or a dislocation of a joint or a severed tendon	Applying splints and/or bandages for the purpose of immobilizing a fracture of a bone or a dislocation of a joint	Order
10.	Administering a substance by injection or inhalation, or monitoring of such	Administering a substance by injection or inhalation in keeping with Schedule X ⁹ (please note that this is inclusive of induction, gases, nerve blocks, chemotherapy, epidurals, and fluid therapy) Monitoring patients under anesthesia	Order Order
12.	Putting an instrument, arm, hand, or finger,		
	i. beyond the external ear canal,	Placing and removing nasogastric tubing	Order
	ii. beyond the point in the nasal passages where they normally narrow,	Placing and removing esophageal or endotracheal tubing	Order
	iii. beyond the larynx,	Placing and removing urinary catheters	Order
	iv. beyond the opening of the urethra,	Vaginal swabbing	Order
	v. beyond the labia majora,	Placing and removing irrigation tubing beyond the anus or cloaca	Order
	vi. beyond the anus or cloaca, or	Expressing anal sacs internally	Order
		Inserting and removing intra-mammary cannula	Order

		Inserting and removing intra-mammary cannula	Order
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Concept	Current Provisions	Proposal
Scope of Practice	<p>Exemptions</p> <p>The Veterinarians Act currently⁷ prohibits any person, other than a veterinarian, from engaging in the practice of veterinary medicine or holding himself or herself out as engaging in the practice of veterinary medicine. However, there are exemptions for:</p> <p>(a) a person who is providing emergency first aid without charging a fee;</p> <p>(b) an animal's owner, a member of the owner's household, or a person employed for general agricultural or domestic work by the owner;</p> <p>(c) a person who is taking blood samples</p> <p>(d) a person who is preventing or treating fish or invertebrate diseases;</p> <p>(e) a person who is collecting or using semen for the purposes of a business that engages in the artificial insemination of livestock;</p> <p>(f) a person who is collecting or transporting ova and embryos of animals other than mammals;</p> <p>(g) a student of veterinary medicine to the extent that the student is engaging in the undergraduate curriculum of studies at the Ontario Veterinary College of the University of Guelph.</p>	<p>Risk of Harm Clause</p> <p>As this model, and compliance with the model, relate to the authorized acts and the risk related to animal outcomes, any individual not licensed by the College who treats or advises about an animal's health where it is reasonably foreseeable that serious bodily harm to an animal or human may result from the treatment or advice or from an omission from them could be prosecuted for the unlawful practice of veterinary medicine.</p> <p>Exemptions</p> <p>It is proposed that the current exemptions in the Act remain with a change to expand the learner exemption to include students of an accredited veterinary medicine program and students of an accredited veterinary technician program. Further, it is proposed that the existing exemption in (b) be amended to also exempt a custodian of an animal to administer a treatment plan, made by a veterinarian, and at the direction of the owner.</p> <p>In addition, the Veterinarians Act would not apply to prevent a person who holds an appropriate certificate of registration from the Ontario College of Pharmacists from compounding and dispensing drugs for, or selling drugs to, the owner of an animal.</p> <p>There would be an additional proposed exemption for:</p> <ul style="list-style-type: none"> • An act by a person is not in contravention of the authorized activities section of the Act if the person is exempted by the regulations under this Act <p>This broad exemption is intended to allow for agility by allowing the creation of exemptions in regulations, such as exemptions for:</p> <ol style="list-style-type: none"> 1. A person performing an authorized activity under a order of a veterinarian 2. A member of the College of Chiropractors of Ontario is from the authorized activities section of the Veterinarians Act for the purpose of: <ul style="list-style-type: none"> a. Moving the joints of an animal's spine beyond the animal's usual physiological range of motion using a fast, low amplitude thrust b. putting a finger beyond the anus for the purpose of manipulating the tailbone

Commented [A116]: Absolutely not. This would be a wild card hidden from the profession and elected legislators until it was put into place.

Commented [A117]: These suggestions are inappropriate. The animal should first be assessed by a licenced veterinarian.

Veterinarians Act, R.S.O. 1990, c. V.3, s 11.

Concept	Current Provisions	Proposal
Scope of Practice	Title Protection	Title Protection
	The Veterinarians Act currently protects the titles of "veterinarian", "vétérinaire", "veterinary surgeon", and "chirurgien vétérinaire" or an abbreviation or variation thereof as an occupational or business designation for licensed members. Further, a person who is not a licensed member is prohibited from using a term, title or description that will lead to the belief that the person may engage in the practice of veterinary medicine.	It is proposed that title protection be expanded to include the titles of "veterinary technician" and "Registered Veterinary Technician" (RVT). Further, with a move to some animal care services in the public domain and away from an exclusive scope model, the title "doctor" (Dr.) will be protected so that only veterinarians licensed in Ontario can use the term in the course of providing or offering to provide, in Ontario, health care to animals. An exemption would be provided to permit chiropractors to use the title "doctor" with specific conditions when providing health care to animals. Such conditions would include that a chiropractor must mention that he or she is a member of the College of Chiropractors of Ontario, or identify himself or herself as a chiropractor when describing himself or herself orally using the title "doctor" (Dr.). When identifying himself or herself in writing using the title "doctor" (Dr.) on a name tag, business card or any document, the member must set out his or her full name after the title, immediately followed by at least one of the following (a) College of Chiropractors of Ontario or (b) Doctor of Chiropractic (DC).
Mandatory Quality Assurance	The Veterinarians Act does not currently have any provisions related to quality assurance	It is proposed that the Veterinarians Act be amended to provide for mandatory quality assurance program for veterinarians. Key elements of the proposed concept include: <ul style="list-style-type: none"> Provisions stipulating co-operation with the Quality Assurance Committee and any advisors it appoints, which would include providing any information requested by the Committee or an advisor. Provisions related to the powers of the Quality Assurance Committee, which include the power to: <ul style="list-style-type: none"> require a member to participate in a program designed to assess his or her knowledge, skill and judgment require a member whose knowledge, skill or judgment have been assessed or re-assessed, and found to be unsatisfactory, to participate in remedial activities as defined by the Quality Assurance Committee direct the Registrar to impose or remove terms, conditions or limitations for a specified period on a member's license in certain defined circumstances Provisions relating to the confidentiality and use of information obtained by the Quality Assurance Committee or its advisors

Commented [A118]: No. They should have their own legislation, their own regulatory body & pay for it with their fees, not veterinarians' fees. Regulating both with the same legislation and regulator will inevitably generate conflicts of interest. Regulation of doctors and nurses is the better model.

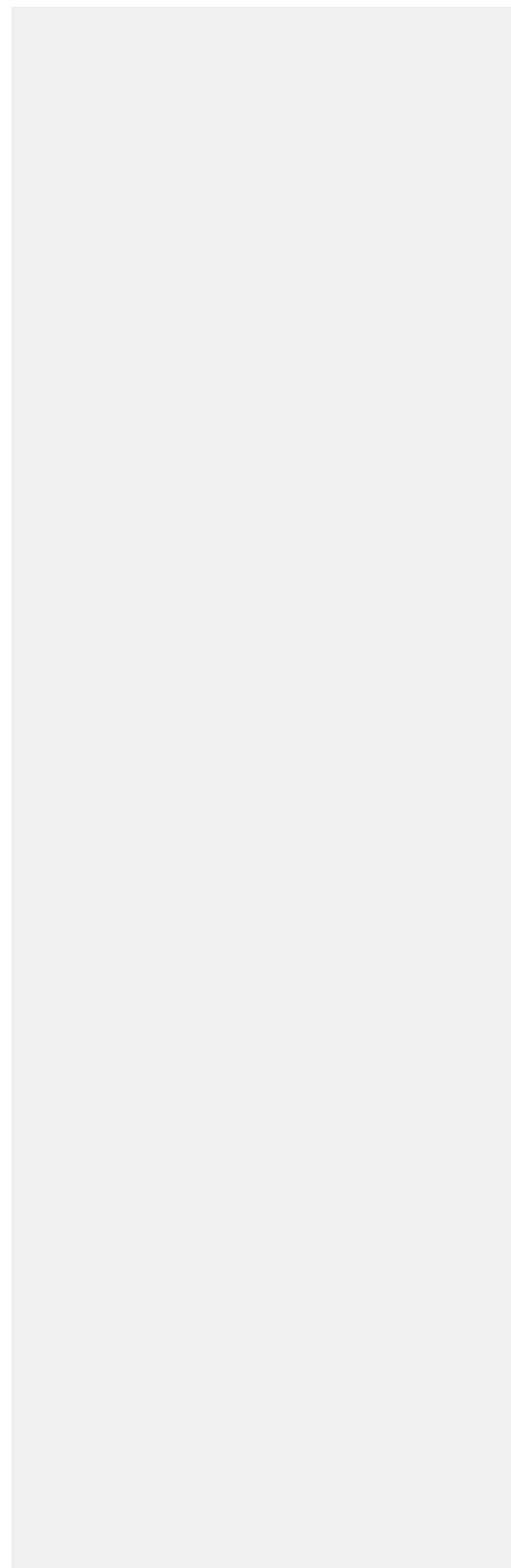
Commented [A119]: No. This is unreasonably intrusive and violates the principles of fundamental justice

Commented [A120]: No. Only as a result of having gone through the discipline process or via a consent order.

Concept	Current Provisions	Proposal
Screening model	<p>Under the existing investigations and resolutions provisions in the Act, there are two potential "streams" for complaints or issues to be managed⁸. The first is the complaints system which investigates a written complaint. This is a paper review process by the Complaints Committee, which does not have the power to appoint an investigator. Following its review of a written complaint, in addition to written statements from relevant witnesses and/or experts, the Committee issues its decision and reasons, which can be appealed to the Health Professions Appeal and Review Board. The second is a Registrar's Investigation process, in which information can be brought to the College's attention through any number of means (such as the police, newspapers, anonymous sources, etc.). Such cases are handled by the Executive Committee, which has the power to appoint an investigator. Upon receipt of the investigator's report, the Executive Committee reviews the case, and issues a formal written decision.</p> <p>The options for disposition are the same for both Committees – no further action, advice, a caution, a voluntary undertaking, or a referral to the Discipline Committee.</p>	<ul style="list-style-type: none"> • Under the proposed model, there is to be one triage or intake process which is streamlined and transparent. In effect, the current Complaints and Executive Committees' roles relating to investigations and resolutions are collapsed into a single committee known as the Investigations and Resolutions Committee. The proposed model allows for an investigator to be appointed in any case as necessary. • Under the proposed model, cases that are considered frivolous and vexatious or outside of the College's jurisdiction could be dismissed at intake to reduce the inefficient use of resources and reduce delays for high risk cases. • The model proposes the introduction of a mandatory alternative dispute resolution (ADR) process in certain circumstances, such as financial disputes and misunderstandings related to communication. • The model also introduces mandatory education or remediation courses under the Specified Continuing Education or Remediation Program as a potential outcome where remediation is deemed necessary. • The proposed model maintains the arm's length appeal process of the Health Professions Appeal and Review Board to ensure the accountability of College decision-making related to its members

Commented [A121]: No. The member should always have the option of "full on" administrative tribunal and appeals to and including superior court.

8 Veterinarians Act, R.S.O. 1990, c. V.3, s 23-25, 36.

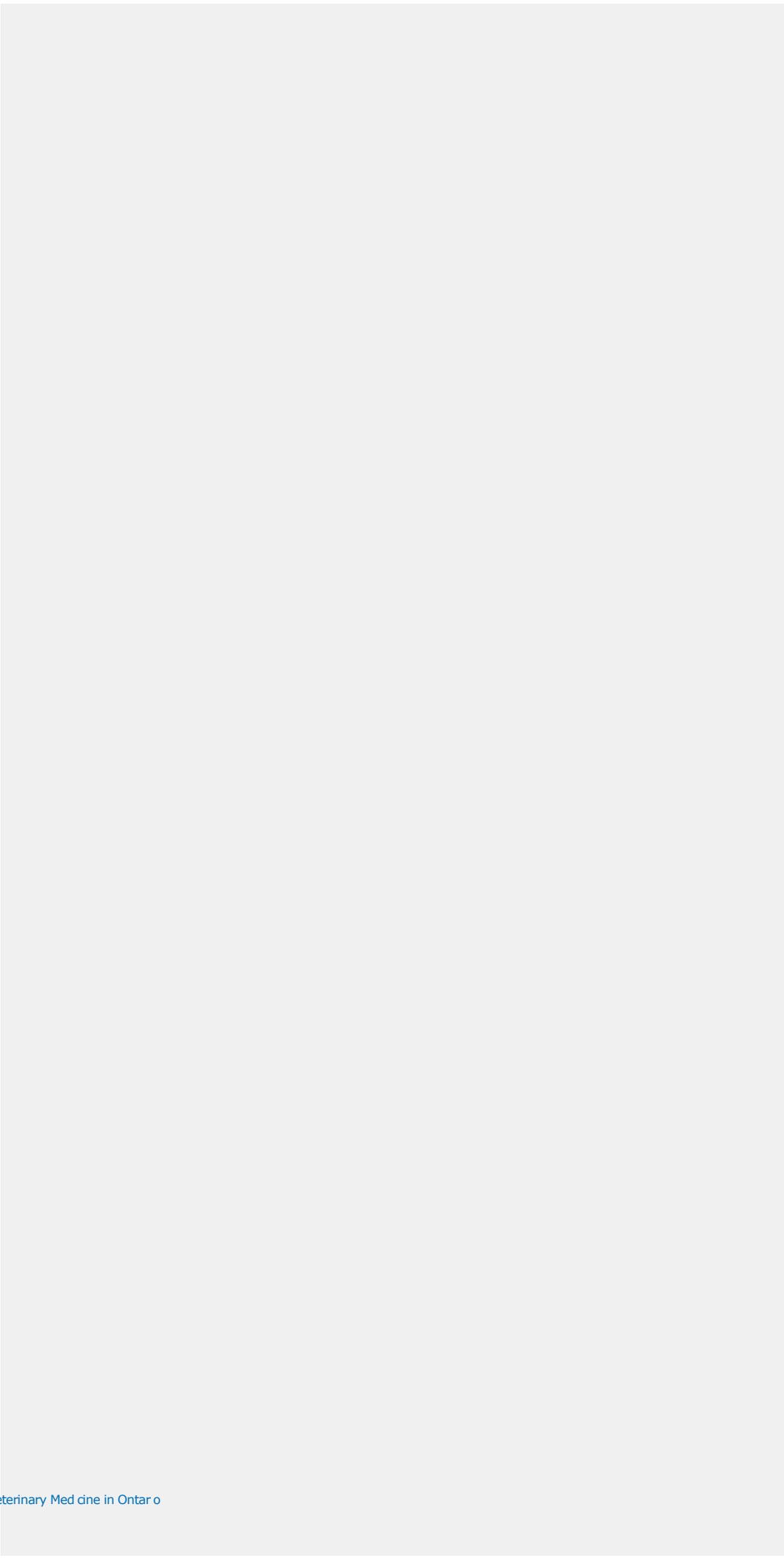


Concept	Current Provisions	Proposal
Mandatory reporting	The Veterinarians Act does not currently include any mandatory reporting provisions	Mandatory reporting is being proposed in circumstances in which a licensed member has reasons to believe that another licensed member is incapacitated or unwell. Circumstances that might justify a mandatory report would be cases where a veterinarian is incapacitated by a physical or mental health condition that impairs his or her ability to provide veterinary care. A report would be made to the College. The College would then conduct its own investigation. A report would not constitute a finding of incapacity against the member who is the subject of the report. The proposal regarding mandatory reporting includes an immunity provision for reports stating that no action or other proceeding shall be instituted against a person for filing a report in good faith.
Investigator Appointments and Powers	The Veterinarians Act provides that, where the Registrar believes on reasonable ground that a member or former member of the College has committed an act of professional misconduct or serious neglect or that there is cause to refuse to issue or renew or to suspend or revoke a certificate of accreditation, the Registrar may, with the approval of the Executive Committee, appoint one or more persons to investigate the matter ⁹ .	With respect to investigator appointments, it is proposed that the Registrar may appoint one or more investigators to determine whether a member has committed an act of professional misconduct or is incompetent if: <ul style="list-style-type: none"> a. the Registrar believes on reasonable and probable grounds that the member has committed an act of professional misconduct or is incompetent and the Investigations and Resolutions Committee approves of the appointment; b. the Investigations and Resolutions Committee has received information about a member from the Quality Assurance Committee under the relevant section and has requested the Registrar to conduct an investigation; or

Commented [A122]: Huge potential for abuse. Where are the examples of other professions doing this?

Commented [A123]: The Registrar must be forced to provide the source of their belief in order that the member complained against may face the accuser. This is a basic legal principle. Further, unless the Registrar is a veterinarian, their belief will inherently be based on "hearsay", and could only be informed by information from a licensed veterinarian. The Registrar should not have this authority. This authority should be limited to the appropriate committee(s).

9 Veterinarians Act, R.S.O. 1990, c. V.3, s 36.



Concept	Current Provisions	Proposal
	<p>With respect to investigator powers, the Act states that a person appointed to make an investigation may inquire into and the practice of the member or former member in respect of whom the investigation is being made and may, upon production of his or her appointment, enter at any reasonable time the business premises of the member or former member, make reasonable inquiries of any person and examine documents and things relevant to the subject-matter of the investigation.¹⁰</p>	<p>c. the Investigations and Resolutions Committee has received a written complaint about the member and has requested the Registrar to conduct an investigation.</p> <p>Further, it is proposed that the Registrar may appoint an investigator in an emergency if the Registrar believes on reasonable and probable grounds that the conduct of the member exposes or is likely to expose his or her patients or clients to harm or injury, and that the investigator should be appointed immediately and there is not time to seek approval from the Investigations and Resolutions Committee.</p> <p>The proposed additions to the existing provisions related to investigator powers include that an investigator:</p> <ul style="list-style-type: none"> i. may inspect or observe the practice of veterinary medicine performed by a member or under the supervision of a member ii. may take photographs or make audio or video records relating to the member's practice of veterinary medicine iii. may remove original versions of evidence where necessary (for example, where an original document is necessary to prove tampering or fraud) iv. may use any data storage, processing or retrieval device or system used in carrying on business in order to produce information that is relevant to the investigation and that is in any form v. may, upon giving a receipt for them, remove for examination and testing and may copy anything relevant to the investigation and testing, including any data storage disk or other retrieval device in order to produce information vi. may conduct tests that are reasonably necessary vii. may, upon giving receipt for them, require a person to produce any documents, records, equipment, supplies and such other things of the person being investigated that the investigator determines are relevant to the investigation, including using any data storage, processing or retrieval device or system to produce information that is relevant to the inspection and that is in any form, and the person shall produce the things required and provide the assistance.

Commented [A124]: No. If the CVO thinks these steps are necessary, they can seek a warrant, which will require justification of the request.

10 Veterinarians Act, R.S.O. 1990, c. V.3, s 36.

Concept	Current Provisions	Proposal
Interim Suspensions	<p>The Veterinarians Act currently includes interim suspension provisions related to matters of incapacity or wellness. More specifically, under the Act, a Board of Inquiry (appointed by the Committee) may require a licensed member to submit to physical and mental examinations by a qualified person, and if the licensed member refuses or fails to submit to such examinations, the Board of Inquiry may order that the licensed member's licence be suspended until he or she complies. In addition, when a Board of Inquiry reports its findings to the Executive Committee if the Executive Committee refers the matter to the Registrar on Committee to hold a hearing, the Executive Committee may suspend the licensed member's licence until the determination of whether or not the licensed member is impaired becomes final¹¹.</p> <p>There are currently, however, no parallel provisions in the Veterinarians Act related to interim suspensions when a case is referred to the Discipline Committee.</p>	<p>It is proposed that within the authorities of a newly constituted Investigations and Resolutions Committee, the committee be permitted to make an interim order directing the Registrar to suspend or impose terms, conditions or limitations on a member's licence if:</p> <ul style="list-style-type: none"> (a) it is of the opinion that the conduct of member exposes or is likely to expose any animal(s) or his or her client(s) to serious harm or injury; and (b) an allegation has been referred to the Discipline Committee. <p>If such an order is made, the College must prosecute the matter expeditiously and the Discipline Committee must give precedence to the matter.</p> <p>It is also proposed that an interim suspension may not be made unless the member has been given notice of the Committee's intention to make the order and provided time to make written submissions to the Committee. In extraordinary circumstances an interim suspension may be made without notice to the licensed member, if there are reasonable and probable grounds to believe that urgent intervention is needed.</p>

Commented [A125]: Unless the CVO can clearly show that the existing system isn't working, this should be left alone. If the CVO wishes to impose a penalty without a trial, it can apply to court for the appropriate injunction.

11 Veterinarians Act, R.S.O. 1990, c. V.3, s 33.

Concept	Current Provisions	Proposal
Publicizing Notices of Hearing	Under the current provisions of the Veterinarians Act, the College is not permitted to publish members' names until there is a discipline finding ¹² . As a result, the College cannot publicize a notice of hearing, nor a member's name prior to a hearing.	<p>It is proposed that hearings of the Discipline Committee and the Accreditation Committee, which are already open to the public, will be clearly made known prior to a hearing.</p> <p>Information concerning a hearing by a panel of the Discipline Committee or the Accreditation Committee will be publicly available at least 30 days before the intended date of the hearing. The information will include the name of the member against whom allegations have been made, the intended date, time and place of the hearing and a summary of the allegations against the member.</p> <p>Exclusion of public</p> <p>The panel may make an order that the public be excluded from a hearing or any part of it if the panel is satisfied that:</p> <ul style="list-style-type: none"> • matters involving public security may be disclosed; • financial or personal or other matters may be disclosed at the hearing of such a nature that the harm created by disclosure would outweigh the desirability of adhering to the principle that hearings be open to the public; • a person involved in a criminal proceeding or in a civil suit or proceeding may be prejudiced; or • the safety of a person may be jeopardized. <p>Orders preventing public disclosure</p> <p>In situations in which the panel makes an order excluding the public from a hearing, the panel may make orders it considers necessary to prevent the public disclosure of matters disclosed at the hearing, including orders banning the publication or broadcasting of those matters.</p>

Commented [A126]: This is simply public shaming. There's no evidence that there is a problem with the current system. If Council is seeking to reprimand or discipline or terminate a CVO staff member, will that be made public before resolution and will CVO members be invited to observe?

12 Veterinarians Act, R.S.O. 1990, c. V.3, s 29.

Concept	Current Provisions	Proposal
Expanded Public Register	<p>The Act currently requires that a register be kept by the College which includes:</p> <p>(a) the name of every person to whom a licence is issued;</p> <p>(b) any designation of a member of the College as a specialist and any withdrawal of recognition of the member's specialist status;</p> <p>(c) any conditions or limitations imposed on a licence by a committee;</p> <p>(d) any revocation, suspension, cancellation or termination of a licence;</p> <p>(e) the fact and amount of a fine imposed by the Discipline Committee and the fact of a reprimand by the Discipline Committee, unless the Discipline Committee directs that no entry be made;</p> <p>(f) where an entry results from a decision of a committee, the name of the committee that made the decision and any finding of the committee resulting in the entry;</p> <p>(f.1) information that a member of the College consents to be entered in a register;</p> <p>(g) the date of the decision or order that results in an entry under this subsection; and</p> <p>(h) any other information authorized to be entered by the regulations¹³.</p>	<p>It is proposed that the Act be amended to require that the following additional matters be placed on the public register:</p> <ul style="list-style-type: none"> • Notice of accreditation and discipline hearings and related allegations prior to the holding of the hearing; • The presence of any remedial undertaking, and its requirements, and • The presence of any criminal charges/convictions/bail conditions reported at annual licensure

Commented [A127]: No need. Valid concerns can be dealt with under the current legislation.

Commented [A128]: Charges with no conviction mean nothing. Again, will this standard be applied to CVO staff and will CVO members be accordingly informed?

13 Veterinarians Act, R.S.O. 1990, c. V.3, s 19.

Concept	Current Provisions	Proposal
Confidentiality and Immunity	<p>The confidentiality provisions in the Veterinarians Act⁴ provide that individuals engaged in the administration of the Act must preserve confidentiality with respect to all matters related to his or her duties, employment, examination, review or investigation, except for defined exemptions. These exemptions include circumstances in which the person to whom the information relates has provided consent or where permitted by law.</p> <p>Further, it provides that no person to whom the above section applies shall be required to give testimony or to produce any document or thing in any action or proceeding about information obtained during his or her duties, employment, examination, review or investigation except in a College-related proceeding.</p> <p>There is also a robust provision for immunity⁵ where a decision is made in good faith by the College, the Council, a committee of the College or a member of the Council or a committee of the College, or an officer, employee, agent or appointee of the College.</p> <p>The provisions also include a section related to the indemnification of members of the Council or a committee of the College and every officer and employee of the College and every officer and employee of the College out of the funds of the College against all costs, charges and expenses incurred in relation to an action or proceeding related to the execution of his or her duties unless brought about by willful neglect or default.</p>	<p>It is proposed that the confidentiality provision of the Veterinarians Act be updated to include more exceptions to the duty of confidentiality, including disclosure of confidential information to a police officer, to advise whether the College is investigating a member, if there is a compelling public interest in the disclosure of that information, and if there are reasonable grounds to believe that the disclosure is necessary for the purpose of eliminating or reducing a risk of harm to a person or animal or group of persons or animals. An amendment is also proposed to the confidentiality provision that would prevent evidence generated under a College proceeding to be able to be used in a civil proceeding.</p> <p>It is also proposed that the wording of the immunity provision should be broadened to include committee panels.</p> <p>Further, it is recommended that the indemnity provisions in the Act should be moved to by-law.</p>

Commented [A129]: No. The concerns could be dealt with under existing law via seeking a court order in "chambers" court.

Commented [A130]: There is no evidence that the current provisions are insufficient.

Commented [A131]: Absolutely not. There can be huge legal/financial consequences in this area, and these provisions belong only in the statute. If CVO staff seek to immunize themselves and committees from liability for legal wrongdoing, it should be in full view of elected provincial legislators.

⁴ Veterinarians Act, R.S.O. '990, c. V.3, s 38.

'5 Veterinarians Act, R.S.O. '990, c. V.3, s 45.

Concept	Current Provisions	Proposal
Annual General Meetings	The College of Veterinarians of Ontario currently holds an annual general meeting at which members consider and accept a report of Council, accept the auditor's financial statements, appoint an auditor, and hold a member's forum. Within the Veterinarians Act, annual general meetings are linked to provisions from the Corporations Act ¹⁶ .	<p>It is proposed that the sections in the Act that list the provisions in the Corporations Act that apply in respect of the College be repealed and a provision stating that the Corporations Act does not apply in respect to the College be added. This would necessitate several amendments to the Act to address those provisions which are still relevant through the College's bylaws, ensuring that appropriate accountability is still in place.</p> <p>The Veterinarians Act should be amended to read "The College of Veterinarians of Ontario is a body corporate with all the powers of a natural person." (A proposal to allow the Minister of Agriculture, Food and Rural Affairs the ability to review and/or investigate the affairs or management of the College and audit the books has also been included, see page 15). In order to permit the passing of bylaws that would be necessary if the Corporations Act no longer applies, a number of bylaw-making powers have been added (see Appendix C).</p>
Offences and Fines	Please refer to Appendix D	Please refer to Appendix D

Commented [A132]: No. Veterinarians are told that they must pay extremely high licensing fees as they have the privilege of self-regulation. This proposal, along with the proposal for huge intrusion into veterinarians' daily practice lives and the proposed increase of public members discloses an intent to effectively end self-regulation and impose regulation by salaried CVO staff paid by veterinarians' licence fees (which would increase hugely if these proposals went ahead). Self-regulation would be over. If that is to be the outcome, veterinarians should lobby the Minister to simply make veterinary regulation a direct function of Ontario government civil servants, which is essentially what American states do with their state veterinary boards. If veterinarians are not longer to be truly self-regulated, it makes no sense for them to pay huge licence fees to pretend they are.

16 Veterinarians Act, R.S.O. 1990, c. V.3, s. 47.

Appendix B

Methodology

In 2013 the Council of the College of Veterinarians of Ontario identified an increasing need to consider making a request to government to modernize the Veterinarians Act. The initial drivers of this need to consider modernization included:

- a lack of transparency to the public in relation to veterinarians involved in both disciplinary proceedings and remedial undertakings with the College
- a lack of a mandatory program assuring the ongoing quality of veterinary medicine in the province, and
- a need for improved efficiencies in our investigation processes

These drivers were confirmed during the development of the College's Strategic Framework 2017. As a result, one of the four strategic objectives was focussed on legislative reform. With this objective in place, Council formed four working groups to manage the process:

- Oversight Advice
- Scope of Practice
- Investigations and Resolutions, and
- Quality Practice

Each group had terms of reference (see attached).

The College Council also approved six principles against which all recommended concepts were judged.

The Oversight Advisory Group's mandate was to provide, on behalf of Council, leadership and guidance to the legislative reform project inclusive of recommending final changes to the Veterinarians Act for consideration and consultation. The advisory group received regular reports from the working groups and monitored each working group's progress. Further, it provided regular progress reports to Council and coordinated the proposed recommendations into one set of changes, ensuring appropriate legal consultation where necessary.

The following legislative reform concepts went out for public consultation individually, as recommended by the respective working group and advisory group, and as directed by Council:

- Mandatory Quality Assurance Program
- Single Screening Process
- Expanded Public Register
- Mandatory Reporting of Dismissal or Resignation Related to Incompetence or Incapacity of a Member
- Interim Suspensions
- Publicizing a Notice of Hearing
- Objects of the College
- Scope of Practice Model

The consultation responses for these concepts were reviewed by the advisory group and by Council, and recommendations of support or revision were made. All final recommendations were then included in a concept paper entitled "Achieving a Modern Approach to the Regulation of Veterinary Medicine in Ontario." This paper received further public consultation prior to Council's final determination to forward this work to government.

It is noted that suggested changes to the Act will need to be accompanied by complimentary changes to Ontario Regulation 1093.

Appendix C

Regulation and Bylaw-Making Powers

Current Regulation-Making Powers in the Veterinarians Act¹:

Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations with respect to the following matters:

1. Prescribing classes of licences and governing the qualifications and requirements for the issuance of licences or any class thereof and prescribing the conditions and limitations thereof.
2. Respecting any matter ancillary to the provisions of this Act with regard to the issuance, cancellation, suspension and revocation of licences.
3. Respecting any matter ancillary to the provisions of this Act with regard to the issuance, renewal, suspension and revocation of certificates of accreditation.
4. Prescribing classes of certificates of accreditation and governing the qualifications and requirements for the issuance and renewal of certificates of accreditation or any class thereof and prescribing the conditions and limitations thereof.
 - 4.1 Governing the practice of veterinary medicine through professional corporations, including (without limiting the generality of the foregoing) requiring the certification of those corporations, governing the issuance, renewal, suspension and revocation of certificates of authorization, governing the conditions and limitations that may be imposed on certificates and governing the names of those corporations and the notice to be given of a change in the shareholders of those corporations.
5. Providing for the designation of members of the College as specialists, prescribing the qualifications and requirements for designation as a specialist, providing for the suspension or revocation of such a designation and for the regulation and prohibition of the use of the designation by members of the College.
6. Governing the use of names and designations in the practice of veterinary medicine by members of the College.
7. Authorizing entries in, and the form of maintenance of, registers of members and former members of the College and directories of veterinary facilities and providing for the issuance of certificates of standing by the Registrar.
8. Prescribing and governing standards of practice for the profession.
9. Regulating the compounding, dispensing and sale of drugs by members of the College, and the containers and labelling of drugs compounded, dispensed or sold by members, and prescribing the records that shall be kept in respect of such compounding, dispensing and sale.
10. Establishing a special category of membership for retired members and determining the rights, privileges, duties and obligations of such members.
11. Respecting the promotion or advertising of the practice of veterinary medicine.
12. Prohibiting the practice of veterinary medicine where there is a conflict of interest and defining conflict of interest for the purpose.
13. Defining professional misconduct for the purposes of this Act.
14. Respecting the reporting and publication of decisions in disciplinary matters.
15. Requiring the payment of annual fees by members of the College, fees for processing applications, licensing, certificates, examinations and inspections, including penalties for late payment, prompt payment discounts and interest on late payments and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof.
16. Requiring the making of returns of information by members of the College in respect of names, addresses, telephone numbers, professional associates, partners, employees and professional activities.
17. Providing for the compilation of statistical information on the supply, distribution,

1 Veterinarians Act, R.S.O. 1990, c. V.3, s 7.

professional liability insurance and professional activities of members of the College and requiring members to provide the information necessary to compile such statistics.

18. Requiring and providing for the inspection of veterinary facilities and of the records kept by members of the College in connection with the practice of veterinary medicine.

19. Authorizing the communication of material that comes to a person's knowledge in the course of duties, employment, examination, review or investigation to specified classes of persons or for specified purposes.

20. Respecting the duties and authority of the Registrar.

21. Prescribing and requiring the making and keeping of records by members of the College in respect of the practice of veterinary medicine.

22. Exempting any member of the College from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

23. Providing that any form required under this Act be in a form approved by the

Registrar. Current Bylaw-Making Powers in the Veterinarians Act²:

The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and, without limiting the generality of the foregoing, may pass by-laws respecting the following matters:

1. Prescribing the seal and other insignia of the College and providing for their use.
2. Providing for the execution of documents by the College.
3. Respecting banking and finance.
4. Fixing the financial year of the College and providing for the audit of the accounts and transactions of the College.
5. Prescribing the number of vice-presidents of the College, prescribing procedures for the election of the president and vice-presidents and for the filling of vacancies in those offices.
6. Respecting the calling, holding and conducting of meetings of the Council and the duties of members of the Council.
7. Respecting the calling, holding and conducting of meetings of the membership of the College.

7.1 Providing that a meeting of the Council or of members or a meeting of a committee or panel that is held for any purpose other than for the conducting of a hearing may be held in any manner that allows all persons participating to communicate with each other simultaneously and instantaneously.

7.2 Prescribing what constitutes a conflict of interest for members of the Council or of a committee and regulating or prohibiting the carrying out of the duties of those members in cases in which there is a conflict of interest.

8. Providing for the remuneration of members of the Council and members of committees other than members appointed by the Lieutenant Governor in Council, and providing for payment of necessary expenses of the Council and committees in the conduct of their business.

9. Providing for the appointment, composition, powers, duties and quorums of additional or special committees.

10. Providing for the appointment of persons to make investigations for the purposes of this Act.

11. Providing procedures for the making, amending and revoking of by-laws.

12. Respecting management of the property of the College.

13. Respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safekeeping of its securities.

14. Respecting the borrowing of money by the College and the giving of security therefor.

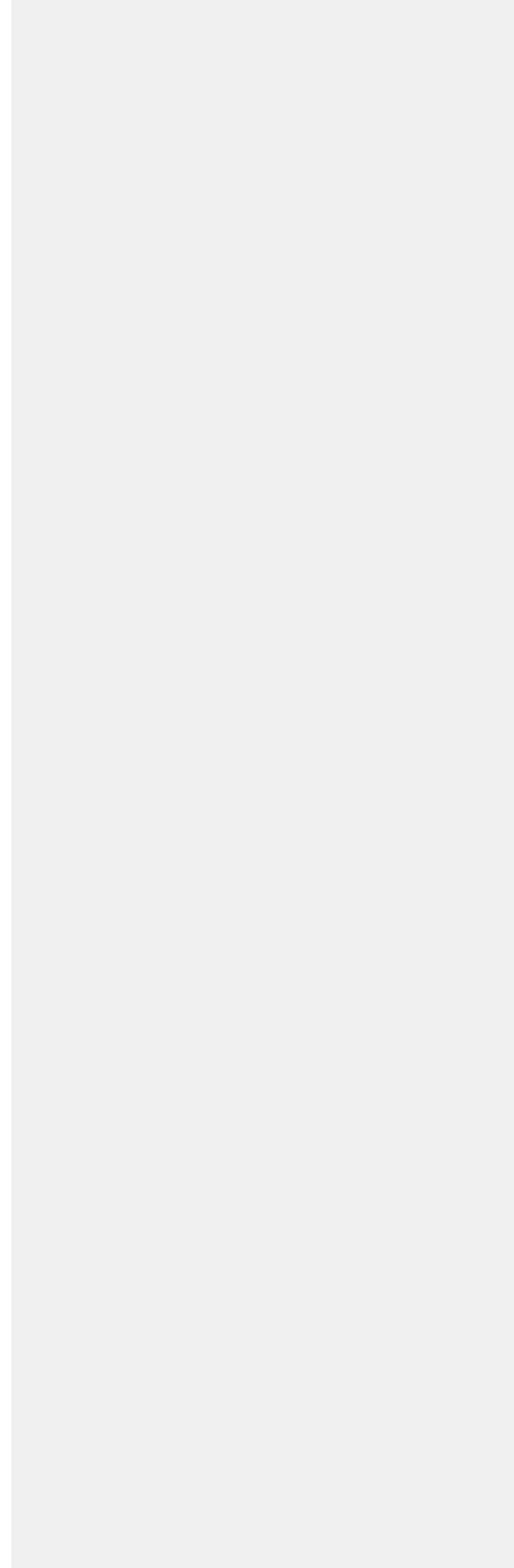
15. Respecting membership of the College in other organizations the objects of which are not inconsistent with and are complementary to those of the College, the payment of annual assessments and provision for representatives at meetings.

16. Delegating to the Executive Committee the powers and duties set out in the by-laws, but this paragraph does not authorize the delegation of the power to make, amend or revoke a regulation or a by-law.

16.1 Governing the practice of veterinary medicine through professional corporations, including requiring the certification of those corporations, governing the issuance, renewal, suspension and revocation of certificates of authorization, governing the conditions and limitations that may be imposed on certificates and governing the names of those corporations and the notice to be given of a change in the shareholders of those corporations.

16.2 Requiring the payment of annual fees by members of the College, fees for processing applications, licensing, certificates, examinations, inspections and election recounts, including penalties for late payment, interest on late payments, discounts for

2 Veterinarians Act, R.S.O. 1990, c. V 3, s 9.



prompt payment and fees for anything the Registrar is required or authorized to do, and setting the amounts of any required payment.

16.3 Requiring members to give the College their home addresses and whatever other information about themselves and their professional activities that the by-law specifies, including the places where they practise the profession, the services they provide there and the names, business addresses, telephone numbers, facsimile numbers and electronic mail addresses of their associates, partners, employers and employees and specifying the form and manner in which the members shall give the information.

16.4 Providing for the compilation of statistical information on the supply, distribution, professional liability insurance coverage and professional activities of members of the College and requiring members to provide the information necessary to compile those statistics.

17. Fixing the number of members to be elected to the Council under clause 4 (2) (a) and defining constituencies, and prescribing the number of representatives.

18. Respecting and governing the qualifications, nomination, election and term or terms of office of the members to be elected to the Council, and controverted elections.

19. Prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council.

The following are the proposed amendments to the Act relating to regulation and bylaw making powers:

New Proposed Regulation-Making Powers:

- Respecting the creation of classes of members.
 - The ability to create classes of members is needed in order to consider a bylaw for student membership or retired members.
- Respecting technical standards and procedures for the practice of veterinary medicine.
 - This provision links to the object of developing, establishing, and maintaining standards of knowledge, skill and proficiency among the College's members
- Providing for the recognition of classes or categories of specialties in veterinary medicine
 - This provision would permit the College to appropriately recognize specialties in veterinary medicine
- Designating acts of professional misconduct that must be reported
 - While we have a list of misconduct matters in Regulation 1093, this authority makes it clear that Council may do so
- Providing for the direct observation of a member in his or her practice, including the direct observation by inspectors of procedures, during the course of an inspection or examination
 - This provision provides for observation-based inspection which can be helpful with standards-related cases
- Prescribing a quality assurance program
 - This provision is in support of the introduction of a mandatory quality assurance program
- Prescribing a program related to changing scopes of practice that occurs following a specified period of time after graduation from a veterinary college
 - This provision provides for programs to manage the risk of scope changes
- Prescribing a program related to re-entering the profession following specified period of absence from practising veterinary medicine
 - This provision provides for re-entry programs
- Prescribing forms of energy for the purposes of the authorized activities section of the Act;
- Governing or prohibiting the delegation by or to members of authorized activities;
- Exempting a person or activity from the authorized activities section; and
- Attaching conditions to an exemption
 - These regulation-making powers are necessary to administer the proposed scope of practice model
- Regulating or prohibiting the use of terms, titles and designations by members in respect of their practices; and
- Allowing the use of the title "doctor", a variation or abbreviation or an equivalent in another language
 - These regulation-making power are necessary to execute the proposed title protection provisions in the proposed scope of practice model

Commented [A133]: Unnecessarily intrusive. If there are other jurisdictions or professions doing this, please identify.

Commented [A134]: There is no evidence of any problem with the existing system.

Commented [A135]: No. Feedback from members indicates that inspectors have boundary issues and difficulties with principles of law regarding the existing system. It should not be made worse.

Commented [A136]: Unnecessary. There's no evidence that the existing system is not sufficient.

Commented [A137]: Unnecessary. No evidence of any problem in this area has been presented.

Commented [A138]: Not sure what this means.

Commented [A139]: Unnecessary. There's no evidence that the existing system is not sufficient.

Commented [A140]: Unnecessary. There's no evidence that the existing system is not sufficient.

- Respecting the giving of notice of meetings and hearings that are to be open to the public
 - This regulation-making power is necessary to carry out the concept related to publicizing notices

of hearings Revised Regulation-Making Powers

- It is proposed that the current regulation-making power related to specialists be revised to include the power to prescribe the rights, privileges, duties, and obligations of specialists
 - This amendment would allow the College greater powers with respect to

specialists New Proposed Bylaw-Making Powers:

- Respecting the composition of Committees
 - This provision allows for increased flexibility
- Establishing a special category of membership for student members and determining the rights, privileges, duties and obligations of such members
 - The addition of this provision is proposed as there is currently no such provision
- Establishing requirements for maintenance of professional liability insurance coverage by members
 - The addition of this provision is proposed as there is currently no such provision
- Respecting the qualification, selection, appointment and terms of office of members of committees required who are not members of the Council
 - The addition of this provision is proposed as there is currently no such provision
- Respecting information to be placed on the Register
 - This provision moves the register information requirement from the regulations to bylaw increasing agility over time
- Respecting details regarding whether and when information on the Register can be removed from the Register
 - There is currently no such provision and this will address questions on this topic in rule rather than in policy
- Respecting the appointment of an accountant or a firm of accountants to audit the accounts of the College and to prepare financial statements for each fiscal year;
- Respecting examinations and reporting by the auditor;
- Respecting the recording, approval, maintenance, and availability of accurate Council minutes at the College office;
- Respecting additional qualifications for or restrictions on the auditor; and
- Providing that the acts of a director or of an officer are valid despite any defect that may afterwards be discovered in his or her appointment or qualification.
 - These bylaw-making powers are necessary additions as a result of the removal of the applicability of the Corporations Act provisions in the Act
- Prescribing conditions disqualifying committee members from sitting on committees and governing the removal of disqualified committee members
 - The Act currently include a bylaw-making power to prescribe the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council. The addition of this proposed bylaw-making power would allow the same for all committee members

Regulation Making Powers to be Repealed:

- Requiring the payment of annual fees by members of the College, fees for processing applications, licensing, certificates, examinations and inspections, including penalties for late payment, prompt payment discounts and interest on late payments and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof.
 - This is already a bylaw-making authority and is more appropriately dealt with in bylaw
- Providing for the compilation of statistical information on the supply, distribution, professional liability insurance and professional activities of members of the College and requiring members to provide the information necessary to compile such statistics.
 - This is already a bylaw-making authority and is more appropriately dealt with

in bylaw Bylaw Making Powers to be Repealed:

- Respecting the calling, holding and conducting of meetings of the membership of the College.

Commented [A141]: Unnecessary. There's no evidence that the existing system is not sufficient.

Commented [A142]: No. The proposal is intrusive and the authority should continue to be by regulation, **not** bylaw.

- It is proposed that this bylaw-making power be removed as a result of the proposed concept of **repealing provisions that mandate holding an annual general meeting.**

Provisions to be Moved from Regulation-Making Power to Bylaw-Making Powers

- Governing the use of names and designations in the practice of veterinary medicine by members of the College
- The proposal to move this provision from a regulation making power to a bylaw making power is because it is an administrative matter and as a result of advice from the College`s legal counsel that this is more appropriately dealt with in bylaw
- Establishing a special category of membership for retired members and determining the rights, privileges, duties and obligations of such members
- The proposal to move this provision from a regulation making power to a bylaw making power is made because it is more appropriately dealt with in bylaw

Provisions to be Moved from the Act to a Bylaw-Making Power

- Providing for the remuneration and indemnification of members of the Council and members of committees and every officer and employee of the College, and their heirs, executors and administrators, and estate and effects other than members appointed by the Lieutenant Governor in Council, and providing for payment of necessary expenses of the Council and committees in the conduct of their business.
- This amendment is made as a result of legal counsel`s suggestion to move this provision from the Act to bylaw, to allow for **agility and flexibility**

Commented [A143]: Again, this step would effectively end the status of the profession as "self-regulating".

Commented [A144]: Unnecessary. There's no evidence that the existing system is not sufficient.

Commented [A145]: Absolutely not. These belong under the oversight of elected legislators.

Commented [A146]: These words appear throughout where the authors appear to seek to avoid legislators' oversight.

Appendix D

Offences and Fines

Current Provisions Related to Offences and Fines in the Veterinarians Act¹:

Offences

40. (1) Every person who contravenes section 11 is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$15,000 and for each subsequent offence to a fine of not more than \$30,000.

Idem, use of titles

(2) Every person who is not a holder of a licence and who,

(a) uses the title "veterinarian", "vétérinaire", or "veterinary surgeon", "chirurgien vétérinaire" or an abbreviation or variation thereof as an occupational or business designation; or

(b) uses a term, title or description that will lead to the belief that the person may engage in the practice of veterinary medicine,

is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$5,000 and for each subsequent offence to a fine of not more than \$15,000.

Idem, publication

(3) Every person who contravenes subsection 29 (1) or (3) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 and for each subsequent offence to a fine of not more than \$20,000.

Corporation

(4) Where a corporation is convicted of an offence under subsection (1), (2) or (3), the maximum fine that may be imposed is \$25,000 on a first conviction and \$50,000 on each subsequent conviction and not as provided in subsection (1), (2) or (3).

Offence, director, officer, etc., of corporation

(5) Where a corporation is convicted of an offence under subsection (1), (2) or (3),

(a) each director of the corporation; and

(b) each officer, employee or agent of the corporation who was in whole or in part responsible for the conduct of that part of the business of the corporation that gave rise to the offence,

is guilty of an offence unless he or she proves, on the balance of probabilities, that he or she took all reasonable care to prevent the commission of the offence.

Idem, penalty

(6) Every person convicted of an offence under subsection (5) is liable on conviction to a fine of not more than \$15,000 on a first conviction and not more than \$30,000 on each subsequent conviction.

Limitation

(7) Proceedings shall not be commenced in respect of an offence under subsection (1), (2), (3) or (5) after two years after the date on which the offence was, or is alleged to have been, committed.

Offences re falsification, etc.

Falsification of documents

41. (1) Any person who makes or causes to be made a wilful falsification in a matter relating to a register or directory or issues a false licence, certificate of accreditation or document with respect to the issuance of a licence or certificate of accreditation is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Offences for false representation

(2) Every person who wilfully procures or attempts to procure the issuance of a licence or a certificate of accreditation under this Act by knowingly making a false representation

1 Veterinarians Act, R.S.O. 1990, c. V.3, s 40, 41

or declaration or by making a fraudulent representation or declaration, either orally or in writing, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Limitation period

(3) Proceedings to obtain a conviction for an offence under subsection (1) or (2) shall not be commenced after the expiration of one year after the date on which the offence was, or is alleged to have been, committed.

Proposed Provisions

It is proposed that the provisions in the Act related to offences be amended to update the fine amounts, and include a number of new provisions related to offences to modernize these provisions:

Unauthorized Practice

- It is proposed that the unauthorized practice provision be amended to prohibit the performance of controlled acts, inclusive of the risk of harm clause, by those who are not authorized to perform them and contravention of this provision would be an offence. On conviction, a person who contravened this provision would be liable for the first offence to a fine of not more than \$25,000 and for each subsequent offence to a fine of not more than 50,000. It is also suggested that persons who are found guilty of contravening this term may also be liable for imprisonment for a term of not more than one year.

Responsibility of employers

- It is proposed that a provision be added that states that the employer of a person who contravenes the section of the act prohibiting the performance of controlled acts by those who are not authorized to perform them, and who have not been delegated the authority to perform the specific controlled act, while acting within the scope of his or her employment, is guilty of an offence and on conviction is liable to a fine of not more than \$25,000 for a first offence, and not more than \$50,000 for a second or subsequent offence.

Responsibility of directors of corporate employers (new proposed provision)

- In addition, it is proposed that a provision be added that states that if the employer described above is a corporation, every director of the corporation who approved of, permitted or acquiesced in the contravention is guilty of an offence and on conviction is liable to a fine of not more than \$25,000 for a first offence, and not more than \$50,000 for a second or subsequent offence.

Use of titles

- It is proposed that every person who contravenes a provision related to the use of titles is guilty of an offence and on conviction would be liable for the first offence to a fine of not more than \$25,000 and for each subsequent offence to a fine of not more than \$50,000.

Falsification of documents

- It is proposed that any person who makes or causes to be made a wilful falsification in a matter relating to a register or directory or issues a false licence, certificate of accreditation or document with respect to the issuance of a licence or certificate of accreditation is guilty of an offence and on conviction would be liable to a fine of not more than \$25,000 and for each subsequent offence to a fine of not more than \$50,000.

Offences for false representation

- It is proposed that every person who wilfully procures or attempts to procure the issuance of a licence or a certificate of accreditation under the Act by knowingly making a false representation or declaration or by making a fraudulent representation or declaration, either orally or in writing, is guilty of an offence and on conviction would be liable to a fine of not more than \$25,000 and for each subsequent offence to a fine of not more than \$50,000.

Orders Preventing Public Disclosure

- It is proposed that a provision be added that states that every person who contravenes provisions relating to:
 1. where the Council excludes the public from meetings, and makes an order to prevent the public disclosure of matters disclosed in the meeting, including banning publication or broadcasting of those matters; or
 2. where a panel of the Discipline Committee, Accreditation Committee, or Registration Committee makes an order that the public be excluded from a hearing in order to prevent the public disclosure of matters disclosed at the hearing, including orders banning the publication or broadcasting of those matters is liable in the case of an individual to a fine of not more than \$25,000 for a first offence and not more than \$50,000 for a second or subsequent offence, or

Commented [A147]: No. This is just "piling on". The CVO is well able to discipline the individual. This clearly appears to be a money grab.

Commented [A148]: This appears to seek to penalize those who incorporate to practice, and to extract money from the big chains.

in the case of a corporation to a fine of not more than \$50,000 for a first offence and not more than \$200,000 for a second or subsequent offence.

Cooperation with Investigators

- It is proposed that a provision be added that states that every person who obstructs an investigator, fails to co-operate with an investigator, or withholds from him or her or destroys anything that is relevant to the investigation is liable in the case of an individual to a fine of not more than \$25,000 for a first offence and not more than \$50,000 for a second or subsequent offence, or in the case of a corporation to a fine of not more than \$50,000 for a first offence and not more than \$200,000 for a second or subsequent offence.

Commented [A149]: Existing legislation is more than adequate.

Cooperation with Advisors

- It is proposed that a provision be added that states that every person who fails to allow an advisor to enter and inspect premises or inspect medical records is liable in the case of an individual to a fine of not more than \$25,000 for a first offence and not more than \$50,000 for a second or subsequent offence, or in the case of a corporation to a fine of not more than \$50,000 for a first offence and not more than \$200,000 for a second or subsequent offence.

Commented [A150]: Existing legislation is more than adequate.

Mandatory Reporting

- It is proposed that a provision be added that states that every person who contravenes the proposed mandatory reporting provisions by failing to make a report when they are obligated to do so is liable in the case of an individual to a fine of not more than \$25,000 for a first offence and not more than \$50,000 for a second or subsequent offence, or in the case of a corporation to a fine of not more than \$50,000 for a first offence and not more than \$200,000 for a second or subsequent offence.

Prohibition, Professional Misconduct by Professional Corporations

- It is proposed that a provision be added that states that if, in the course of practising veterinary medicine, a professional corporation does, or fails to do, something that would constitute professional misconduct if a member did, or failed to do, it would be liable to a fine of not more than \$50,000 for a first offence and not more than \$200,000 for a second or subsequent offence.

Commented [A151]: No. This is just an added penalty for having a prof corp. Existing sanctions against the individual are more than adequate. The various penalties suggested also betray an absolutely extraordinary lack of knowledge of the economics of veterinary practice.

Corporation

- It is proposed that, where a corporation is convicted of an offence under any of the proposed provisions above, that the maximum fine that may be imposed is \$50,000 on a first conviction and \$200,000 on each subsequent conviction.

Offence by a director, officer, etc., of a Corporation

- It is proposed that where a corporation is convicted of one of the above offences, each director of the corporation and each officer, employee or agent of the corporation who was in whole or in part responsible for the conduct of that part of the business of the corporation that gave rise to the offence is guilty of an offence unless he or she proves, on the balance of probabilities, that he or she took all reasonable care to prevent the commission of the offence. Every person convicted of an offence under this section would be liable on conviction to a fine of not more than \$25,000 on a first conviction and not more than \$50,000 on each subsequent conviction.

Commented [A152]: This again appears to be a money grab. Examples please of where such provisions are in place for other