

December 1, 2017

From: The members of the CVO (College of Veterinarians of Ontario)

To,

Dear Hon. Minister Mr. Leal,

The College of Veterinarians of Ontario (CVO), is in the process of proposing changes to the current Veterinarian Act to you, other lawmakers and stakeholders. We, the members of the CVO, have very genuine concerns about the current Veterinarian's Act and the proposed Act. We are bringing these concerns to your attention that necessitate your utmost and immediate consideration.

► Executive summary:

The CVO's current policies regarding complaints and discipline processes are neither consistent, transparent, objective, impartial nor fair. Additionally, these policies have deviated from its mandate of protecting public interest and self governance. **With the bureaucratic take over, the focus has shifted towards financially punitive penalties for veterinarians over remedial and professional augmentation initiatives.**

Veterinarians in Ontario are respected professionals providing utmost care to their patients strengthening the human animal bond as well as safeguarding dairy, poultry, and meat industries. Most veterinarians are entrepreneurs who are self-employed in their practices and create substantial number of jobs for associates, technicians and other support personnel. Indirectly these small businesses support millions of dollars of industry in the province.

This newer litigation centric culture at CVO is preventing veterinarians from focusing on the business aspect and professional enhancement, jeopardizing their primary role as care givers.

We are convinced that the non-veterinarians (maybe veterinarians) at the helm of the College are the reason for this self-serving, profit making, crippling, and morale breaking culture which has flourished for the last few years. **The combination of the Legal firm, the head of complaints and the chief investigator who are controlling the complaints department at the College for decades are the reason for the creation of this arrogant and toxic atmosphere.**

An investigation into the funds the college has paid to the law firm it has retained over the last 5-10 years will show that the proof is in the pudding. **This law firm has steered the complaints process to make it more pro-litigation and financially punitive for veterinarians, thus reaping profits for themselves and shifting the process from rehabilitation and retraining. This has neither served public interest nor helped the profession.**

In addition, this law firm has a conflict of interest in advising the college to draft new bylaws by making them more litigation friendly, adding higher penalties and leaving fewer options for veterinarians to challenge the decisions or seek justice. New proposed draconian laws will give

more powers to non-veterinarian investigators and the Registrar to impose unannounced inspections (which are to be paid by the veterinarian), non-challengeable interim suspensions, public disclosure and shaming of veterinarians before the disciplinary trial outcomes.

This along with mandatory reporting against each other by veterinarians and technicians are some of the amendments sought to financially and professionally ruin a veterinarian's business and reputation. These stringent powers will not serve any public interest. **With CVO already disregarding existing bylaws by levying fines in excess of 100,000 dollars to some veterinarians, we cannot allow free rein of more unjustifiable powers to the college bureaucrats. We have to consider the fact that in a Civil Court of Law, the damages awarded to a pet owner are limited to the cost of treatment and no other costs are reimbursed.**

As it stands now, two similar complaints at the college get two completely different outcomes as the processes are not transparent or consistent. The discipline register is full of penalties levied against ethnic minority veterinarians. CVO is on the same path where British Columbia Veterinary Medical Association (BCVMA) once was. Human Rights Tribunal has awarded ruling against that organization for unfair and selective prosecution of minorities. Such an episode in Ontario will be a blemish for the reputation of our province, the College, and the entire veterinary profession.

We urge you to look into this matter expeditiously to make the College fully transparent and accountable, and halt proposed amendments until such a review is complete. Details of these issues are further described.

Dissident Voice: A vast majority of our members practice in fear of the college and wish not to come forward to sign this document, but genuinely share the same concerns. As our voices would not be heard through the College we must write directly to you in the hope of an in depth review of our existing and proposed bylaws, comparative analysis with other self-governed professions and veterinarians in other jurisdictions.

The role of the College in relation to its handling of complaints and discipline processes in the past, its relationship to the Law firm, and enhancement of punitive culture over rehabilitation should also be reviewed. Infringement of the basic right of being innocent until proven guilty and the right to earn a decent living as well as preventing a bureaucratic takeover of the CVO and to promote self-governance are other important matters needing your attention.

Any amendment of the bylaws should be done after proper quantification of risk assessment. We intend to release this document to other lawmakers in the province, College, Media and the Prime Minister of Canada. We have full faith in the system and expect the veracious decisions will be made.

► Issues relating to CVO's activities:

[1]. We unequivocally agree that the public interest must be protected by a regulatory body and that the pets /animals and their owners receive the highest standard of care. However, there must be an unprejudiced approach to this mandate.

[2]. We are concerned that many of the decisions the CVO has made, when dealing with complaints cases in recent years are not objective; rather, they are made in the respective interests of the establishment of the CVO and are impairing the well-being and livelihood of many highly qualified and responsible veterinary practitioners.

[3]. We will focus on the following issues which are intertwined and therefore these will be discussed together and not separately.

a) The CVO's proposed changes to the Veterinarian's Act,

b) The CVO with its current powers of the Veterinarian's Act

c) The potential risk that additional changes to CVO's Act will give CVO unprecedented power to be abused unless proper checks and balances are in place.

d) Once the above issues are discussed we will focus on the root cause of the problem with the CVO, the changes of which are left for your perusal.

e) It is our opinion that understanding the root cause of problems with the CVO is essential. Further it will help prevent a repeat of what happened in BC.

[4]. With their recommended proposal for the veterinarian Act, the CVO will give you the impression that they have consulted all the members and have taken their concerns into account while making the final recommendations but that is far from truth.

[5]. The CVO is not transparent and has a very complex process in place and only a handful of people with personal interests are making the decisions which will be presented to you.

[6]. We are of the opinion that our voices will likely not reach you through the CVO, thus, we are reaching to you via this letter.

[7]. Dozens of our members share concerns about the CVO's practices of the last many years, that the organization's actions have deviated from their original purpose: to "protect and serve the public interest through the regulation of veterinary medicine".

► The complaints process is more litigation centric rather than rehabilitative:

[8]. In recent times the corporate culture at the CVO has changed and it is more of a litigation style to complaints rather than rehabilitation. Let us explain the litigation centric approach to you.

[9]. When a complaint against a veterinarian is processed, the broader role of the CVO is to protect the public by determining whether remedial action is necessary and if so what action would best enhance the quality of veterinary medical care of the particular veterinarian and the general quality of veterinary care in Ontario by reinforcing the standards of practice.

[10]. In a very small number of serious cases, the CVO may refer a specified allegation of professional misconduct. The CVO does this where it believes that referral to the Discipline

committee is in the public interest and that the available information has a reasonable chance of supporting successful prosecution.

[11]. Now the CVO has made the culture more litigation centric by getting the prosecutor involved in the very early stages of complaints for a selective “**ambush style**” prosecution. Behind the scenes the legal firm, head of complaints and chief investigators work and promote this litigation centric approach. Members of the complaints committee and discipline committee may or may not be aware that the prosecutor was involved in very early stages of the complaint. By the time the complaint reaches the desk of these committees, they are to assume that due diligence was carried out at the initial investigation level which is not the case.

► **This litigation centric approach has dire consequences for CVO, public, and the veterinarian under investigation.**

[12]. **This approach takes away the interest of the public**, the cost of veterinary medicine will go too high for the average person and many animals will suffer or be euthanized. If our members were to go to the media and let the public know what the CVO is really doing to its members, it will shatter the public confidence all together in this self regulatory body.

[13]. **For a veterinarian**, the remedial process to enhance the quality of veterinary care has shifted towards financial cost and destruction of his or her career. For those veterinarians who survive this ordeal either by going through the process or by pleading guilty will practice in fear.

[14]. Several studies have identified a link between suicide and occupation (1), including the healthcare professions and our own profession. The rate of suicide in the veterinary profession has been pegged as close to twice that of the dental profession, more than twice that of the medical profession (2), and 4 times the rate in the general population (3). This is not good for the profession, for people wishing to enter the veterinary profession and for the family and clients of veterinarians (4).

[15]. Legal costs have approached to a level that creates a barrier to those veterinarians who want to defend themselves.

[16]. When such injustice takes place, it will lead to more applications to Human Rights Tribunals, and more appeals to regular courts. This means more tax payer money going toward Ontario's legal cost.

[17]. Once a veterinarian is disciplined, he or she will have a record forever with the CVO and will not be allowed to go on any of CVO's committees.

[18]. **Consequences for the CVO:** Veterinarian's will (already) have very little respect for the self governing body and will be better off without this organization.

During a recent hearing of one minority member, this what a panel member who was conducting a trial at CVO had to say:

[19]. ***" This member of the panel is concerned that the CVO and the Prosecutor had only one intention, and that was to obtain a conviction of all original allegations at all costs. At***

times it appeared that winning was clearly the objective, not fairness, justice for the interest of the public".

[20]. "The College and Mr. LeBlanc(the lawyer from Steinbecke and Leblanc Law firm that fights cases against Veterinarians) proceeded with a malicious prosecution, therefore awarding any cost to the College or any penalties meted out against Dr..... is not just, not fair and indeed a troubling and dangerous precedent."

"The findings of the committee, the appeal, the entire process send a clear message to any veterinarian who believes they are innocent or faced with unfair allegations. Do not defend yourself, the cost will be unbearable and the precedents have been set, that if you lose your defense, you may be prosecuted again, and appeal maybe launched and your career and your finances may not survive. This is not justice. This is not the message we want to send to the public and to the members of the profession."

► The major beneficiary of this litigation centric approach will be the law firm. Costs awarded against the Veterinarians will end up in the coffer of this law firm.

[21]. Veterinarians are living in a state of fear due to the increased frequency of complaints, cost of litigation and proposed changes to the Veterinarian's Act.

[22] We believe there are no checks and balances in place at the governing level of CVO. Many of our members are afraid of coming out and speaking openly as they are afraid of repercussions from the CVO. Hence, our dissident voice be heard.

[23]. Our members are not the only one's who are afraid to speak, the President of Veterinary Practice Owners Association (Who are mainly from the visible majority), recently in front of a large gathering of our members told us that his members are so afraid of the CVO that they will be writing you a letter through a lawyer about the proposed changes in the Veterinarian's Act as well.

[24]. We believe that this change in culture is due to a law firm trying to generate maximum business for itself. If you review the amount paid to this law firm by the CVO, you would be astonished. There is an inherent conflict of interest. This firm is not only prosecuting the Veterinarians but also advising the College to draw up a new Veterinarian's Act that is pro-litigation and it will increase the number of litigation cases.

[25]. It is expected that these changes in the Act will increase the case load and potential income for this law firm while making the situation far worse for the members.

[26]. These proposals in the veterinarians Act are being counseled by the prosecutor Mr. LeBlanc (and or his firm) who, along with the previous registrar Susan Carlyle, made a presentation before the legislative assembly of Ontario "Committee Documents: Standing Committee on Social Policy - 2010-Aug-23 - Bill 65, Not-for-Profit Corporations Act, 2010" asking the Not-for-Profit Corporations Act, 2010, be removed because it does not apply to the

College.” Mr. LeBlanc is the College's prosecutor and should not involve himself in any other College business, as it is a conflict of interest.

[27]. The same law firm is also providing training to various committees throughout the CVO. Just like our association, the Veterinary Practice Owners Association also considers this a huge conflict of interest.

► **Provisions in the new Veterinarian's Act to increase litigation approach:**

[28]. Mandatory reporting of Veterinarians on their Colleagues: CVO web site states “Introducing a carefully circumscribed provision on mandatory reporting by employers or facility directors in the *Veterinarians Act* related to the dismissal or resignation of a licensed member involving significant incompetence or incapacity, would allow the College to mitigate risks to the public by receiving timely information regarding licensed members whose practice poses a risk to the public and may require remediation or rehabilitation” .

[29]. The risk to public about the incompetence of the Veterinarian and its relevance to the mandate of the College “to protect the public” has not been defined in quantitative terms as done by other regulatory agencies like mental/ health/ fitness Certificate by Physician. At present risk is determined based on how bad it sounds (highly factored if the member is from the visible minority).

[30] Addition of Registered Veterinarian Technicians (RVT-Vet Techs) to this new Act: This will force RVT’s to give evidence against veterinarians and potentially now Vet techs will also have a disciplinary hearing along with the Veterinarian. Right now Vet techs have their own Act and their number of disciplinary cases is miniscule to negligible. Vet Techs now will be able to judge and connoissuer Veterinarians under the disguise of mandatory reporting of incompetence that can create conflict within professional relationships. It will create fear and distrust among veterinarians and staff members. This is like Russia or China where neighborhood committee members were obligated to report to the communist party. Additionally, this will lead to Financial gains for the law firm.

[31]. In the new Act College is asking for cost with no upper limit: This is purely a litigation centric approach. The College can send an investigator to and the cost will be borne by the Veterinarian.

[32] The present act has an upper limit for cost to a Veterinarian per case of \$25000. The main beneficiary of this cost increase is going to be the same law firm. Even though the new act is in the rudimentary stage, the College is already asking for cost between \$80,000 to \$125,000 and ignoring the provisions of the current Vet Act. According to CVMA Veterinary Demographic (2017), there are total 5,302 veterinarians and about 2000 to 2500 veterinary practices in Ontario (5). This will increase the cost of malpractice and legal insurance for each clinic, and ultimately increase the cost of pet care and will affect the veterinary related jobs.

[33]. Quality control: The College wants to make it mandatory that veterinarians submit five medical records to a mentor approved by the College to get feedback to improve the quality of medical records. However, at the same time this mentor is obligated to report any deficiency to

the College for potential litigation. The environment for improvement is gone as there is no room for honest discussion and remedial measures once the threat of potential litigation is hanging over veterinarian's head.

[34]. Interim Suspension: The College's Registrar who is not a veterinarian, can issue non appeal-able Interim Administrative Suspensions to a veterinarian in order not to practice while awaiting hearing.

[35. This is in violation of the basic rights of an individual, "innocent until proven guilty", provided under the Canadian Charter and Human Rights. Interim Suspension should be appealable in Court.

[36] Interim Suspension has already been abused. It was issued to a member, then after 8 months the college withdrew the allegations as the complainant refused to testify and the Courts vindicated the member. In such cases '**who will be responsible**' for the cost and mental trauma of that veterinarian and his/ her staff and family went through?

► **Additional issues with CVO**

[37]. Minority veterinarians feel they are being disproportionately punished: The CVO's disciplinary system is ambiguous; members who belong to minority groups think that they are being targeted by the College based on their ethnicity. The CVO's web site on discipline summary is full of ethnic minority veterinarians.

[38]. In recent times College has tampered with evidence in number of Disciplinary cases, and presented such cases to the complaints and discipline committees and to the Divisional Court to ensure that the college wins the case and then it allows them to add cost that ends up in the coffer of the prosecuting lawyer.

[39]. The College does not represent demographics of the society: At present at the College there is not enough ethnic diversification especially at the level of investigation, complaints and discipline. The Minister should take cue from PM Trudeau's composition of the cabinet and instruct College to have Discipline and Complaints Committee to represent the demographics of the members of the CVO and the Society in general.

Certain Sections of the Veterinarians Act, which CVO has abused, thus, preventing a fair trial.

[40]. Section 38 of veterinarian Act allows the College staff not to answer certain questions in a witness stand. CVO has abused this process by refusing to answer exculpatory evidence (in favor of the veterinarian) and will only provide inculpatory evidence (against the veterinarian proving guilt). **This power needs to be taken away from CVO. In front of a Judge, every party must be equal.**

[41]. Under the current Veterinarian Act section 37 (5), when the discipline Committee has revoked, suspended or had put a condition or limitation on a veterinarian's license for what ever the reason may be, when a veterinarian is applying for reinstatement, he or she has to satisfy the registrar before the case is placed in front of discipline committee. This section is a pure

road block placed by Registrar who has the power to prevent the applicant from going to Discipline Committee. This unnecessary power of registrar need to be obliterated.

[42]. **Abuse of power:** One of the members had a trial. CVO's panel made a mistake in the trial and did not provide adequate reasons for their decision. As a result this member had to go for a second trial. CVO wanted the cost to be paid by the member for both trials even though it was their panels mistake. CVO defended this whole-heartedly by arguing that this was in the public interest. More information on this issue can be provided.

► We request the following points to be considered, whether or not you decide to proceed with the new Veterinarian's Act:

A: CVO should be investigated and held accountable by a third party:

[43]. We urge you to appoint a third party to investigate, analyze and confirm these allegations and the CVO's standards and practices on the behalf of many veterinarians who feel that they are not being treated fairly; not only are these veterinarians being negatively affected, but members of the public are being denied exceptional care from these professionals as a result. It appears that a total overhaul of the system may be in need, or at the very least a close examination of the current practices and proposed by-laws for the new Veterinarian's Act. This assessment of the CVO should also be compared with other self-governing bodies.

B: Replace the legal firm, head of complaints and chief investigator of CVO or create a time line for their respective association with the College:

[44]. This will create a new culture. Incidentally all three are in the helm for number of decades and can enjoy time with their families.

[45]. Conflict of interest between the legal firm and the CVO need to be investigated.

[46]. Postpone the new Veterinarians Act initiative for five years and ask for more expert and broadly evaluated input once the new team has time to get use to new role.

C: CVO needs to be monitored regularly:

[47]. Appoint a watch dog to monitor the activities of CVO for 5 years before the Act approved becomes final.

[48]. Fairness Commissioner's powers should be expanded to promote transparent, objective, impartial and fair complaints and discipline process in addition to its existing powers on registration practices in Ontario's regulated professions and compulsory trades.

[49]. Create an advisory board as a liaison between the CVO and the Ministry.

[50]. Minister of Agriculture and Courts should have the option to remove the immunity offered to Officers of the College if it was felt that the act committed by the Officer was egregious and officer should be liable to the cost in person or in conjunction with the College.

D: CVO should define “Risk to Public” in collaboration with stakeholders. (stakeholders means veterinarians);

[51]. CVO’s current assessment system of “Risk to Public” is flawed. Two Veterinarians with similar discipline issues "BOTH IN THE PUBLIC INTEREST" are ending up with two completely different outcomes. One of the veterinarians will be let off of the charges while the other is punished to the extreme; How is this fair? It seems to us that CVO has a double standard for some veterinarians over other veterinarians.

[52]. In 50 and 60’s regulatory bodies will use the phrase "Risk to Public" and the stakeholders were expected to shut up and accept the decision of the regulator. That changed with EPA (Environmental Protection Agency) development of risk assessment system in consultation with stakeholders.

[53]. CVO along with stakeholder needs to define “Risk to Public”, otherwise CVO will continue to abuse this power: Stakeholders should include one veterinarian from each of the following categories: small animal practice, large animal practice, veterinarian from ethnic minority, Federal Government Veterinarians, Practice Owners association, OVMA, and so on.

E: CVO needs to be transparent:

[54]. Since CVO is not transparent with the cases, it is impossible to understand why similar cases have different outcomes. This is why CVO needs to be investigated.

[55]. When complaints committee does not provide reasons as to why it is referring a case to discipline committee, one can ask the following questions:

- a) In similar cases where one case is sent to discipline and the other is not, public interest has not really been protected
- b) Does the complaints committee have any accountability? Every adjudicator must give reasons for its decisions.

[56]. All referral from Complaints Committee to Discipline Committee should come with reasons for decision and signature of the person who wrote the decision along with the other members of the Committee. There should be a justification why this case is referred to Discipline Committee in terms of risk to the public and if similar fact cases in the past were either referred to or not and how they were dealt with. At every step of decision making, the member against whom the complaint has been registered needs to be updated and allowed justification and clarification of his state.

[57]. When Complaints Committee does not give reasons for referral to Discipline Committee, a veterinarian's right to appeal to Health Professional Review Board (HPRB) has been taken away, which is a violation of Canadian Charter and Human Rights Code.

F: Appointments to Discipline and Complaints committee

[58]. Members on these committee should not be appointed but elected, one from each category of stakeholders (Stakeholders would need to be defined).

[59]. CVO should waive the criteria that members of the Discipline and Complaints Committee should not have any discipline issues against them provided the member has fulfilled the remedial process.

[60]. There should be a sunset clause or a limit of Five year on the Discipline finding/orders staying on the Register.

[61]. CVO's prosecution system should be like any other tribunal type and not an office for profit. It is our suggestion that no person in the tribunal directly or indirectly shall be in the office for a period of 5 years or more. This will ensure fair unequivocal approach to the complaints process. (All tribunals should have similar standards across the board).

G: Tracking of complaints and publication of Discipline summaries:

[62]. College needs to catalogue all cases of Complaints whether or not the complaint reached the Complaints Committee with case number. These complaints must be made available to any member (not the public) on request along with the name of veterinarian and complainant (court proceeding of the CVO publish name of the veterinarian and complainant), for research and transparency purposes.

[63]. CVO should publish all the discipline orders on the internet discipline summary section since they started keeping the records. These records should be available to all licensed members at no additional cost. The members ought to know right or wrong decisions to allow for clarification and justification.

H: Cap on cost to veterinarian's prosecution:

[64]. It is the mandate of the College to regulate and there is an inherent cost involved to the College. This cost is already borne with by the members and by the Province. In this scenario, there should be a cap on the cost to the member regardless of the length of the hearing. College should also make an effort to streamline the allegations to shorten the Discipline hearing cost.

[65]. CVO should not be able to recover the cost for investigative process just as the police officer is not responsible for the cost of investigation.

[66]. College should make cost incurred by each investigation public and members should be able to check the real invoices and actual payments made. College should not be able to provide such information through affidavit of a staff

[67]. Please note that our yearly licensing dues are going up as are result of CVO's pro-litigation approach serving the bureaucrats at the college.

We fully understand that CVO has a duty to protect the public interest fairly, justly and expeditiously. However, this duty must come with balanced approach to enjoy self- governing status. This means that CVO must be transparent to its members and should have an ongoing

accountability to some governmental office easily accessible to members. CVO should not violate Veterinarians Act, Canadian Charter, Human Rights Code and rules of natural justice when processing complaints against members who may expend significant resources responding to a complaint and who's livelihood depends on maintaining a license to practice veterinary medicine.

To support this document **66** practising Veterinarians of Ontario signed this petition. More than 300 Ontario Veterinarians have read this document and gave their verbal consent but were afraid to sign fearing backlash from College.

We appreciate your time and help in this matter. Please contact us at vetontario@gmail.com for further discussion or to arrange a meeting if deemed appropriate.

Sincerely,

Members of the CVO.

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Cc:

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