



FEBRUARY 2003

VET REGISTER

THE NEWSLETTER OF THE VETERINARY SURGEONS BOARD OF QUEENSLAND
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INTRODUCTION OF VETERINARY SURGEONS REGULATION 2002

The Veterinary Surgeons Regulation 2002 commenced on 1 September 2002 replacing the 1991 Regulation (Regulations must be replaced at ten year intervals).

The 1991 Regulation underwent substantial amendment in late 2001 as a result of the National Competition Review of the *Veterinary Surgeons Act 1936*. The much publicised amendments removed restrictions on advertising and practice ownership and reinforced the regulation of veterinary premises.

Major amendments on expiration of the 1991 Regulation were therefore not necessary. Amendments were restricted to three provisions.

The amendment proposals were documented in a Regulatory Impact Statement distributed in July 2002 with an invitation to make submissions on the proposals.

CONTINUING VETERINARY EDUCATION

A new Regulation was introduced that compels a veterinary surgeon to keep a record of any continuing education (CE) undertaken by that person. The record must be kept in an approved form and for three years from the date of undertaking.

It is stressed that a record of CE is not a prerequisite to renewal of registration as a veterinary surgeon.

The combined veterinary boards of Australia and New Zealand have agreed to a uniform policy on the keeping of records of CE undertaken by veterinary surgeons. It was necessary to include a provision in the Queensland Regulation to allow for introduction of guidelines on the recommended level of participation in CE, acceptable forms of CE and assessment of units of CE.

There will be no penalties imposed for failing to undertake CE or failing to keep CE records in the approved format. The purpose of the policy is to enable veterinary boards to refer to national standards of CE when determining the level of competency of a veterinarian in a complaint resolution situation.

In cases where prima facie evidence of negligent or incompetent practice is available, the onus will be on veterinary surgeons to provide the board with evidence in an approved form of CE undertaken in their chosen field of practice over the previous three years.

CE refers to a continuous post-graduate program of both structured and unstructured learning activities which contribute to the professional competence of the veterinary surgeon. The policy is for self-regulation in keeping records of points gained in the undertaking of CE.

When developing the guidelines the Queensland board intends to draw on the knowledge of other jurisdictions where recording of CE has been a requirement for a number of years. Further national discussions are scheduled for May 2003 at which time it is expected that national standards will be formally adopted.

The Queensland guidelines on CE to be distributed to all registered veterinary surgeons before the end of 2003 will address levels of participation, acceptable forms of structured and unstructured activities, value of units and form of records. It is recommended that diary notations of CE undertaken from 1 January 2003 be made pending distribution of the guidelines.

FEE INCREASE

An increase in the level of statutory fees applied by the Act was long overdue as increases have been restricted only to the CPI level for the past ten years.

This policy resulted in an increasing percentage of operational costs being funded from the board's fund reserves accumulated over many years to provide prosecution capability and for unforeseen costs.

Despite the revised fee scale which now applies, registration fees in Queensland remain the second lowest in Australia behind Northern Territory. The annual registration fees levied by other state boards which are not physically tied to a government department can be up to three times the Queensland fee.

Queensland ranks second to New South Wales in the number of registered veterinary surgeons (2058 at 31 December 2002).

SPAYING OF CATTLE

An amendment was made to the list of procedures that are not veterinary science for the purposes of the Act. The list predates from the commencement of the Act in 1936 and is amended as required so as to be acceptable in terms of current day animal welfare standards. The list is restricted to acts of animal husbandry with the exception of the filing and rasping of horse's teeth.

The amendment made on this occasion relates to the spaying of cattle which since 1936 had been exempted as an act of veterinary science. Due to animal welfare concerns and to accord with a proposed amendment to the 'Australian Model Code of Practice for the Welfare of Animals', the exemption now only applies to cattle spaying when performed using the Willis dropped ovary technique.

Non-veterinary contractors engaged in the commercial performance of cattle spaying who do not use the Willis method are now in breach of the *Veterinary Surgeons Act*.

Non-veterinary contractors cannot access restricted drugs which the welfare authorities believe should be administered when using any method other than the Willis.

Any concerns with the welfare of cattle being spayed by owners or their agents by methods other than the Willis method should be addressed with a regional DPI Animal Welfare inspector. The use of passage spreaders is totally unacceptable and incidents of their use should be reported immediately to the Animal Welfare inspector.

The Queensland Veterinary Surgeons Act 1936 and Veterinary Surgeons Regulation 2002 can be viewed at

www.legislation.qld.gov.au

Click on 'home' page, legislation, alpha letter 'V' and scroll down page.

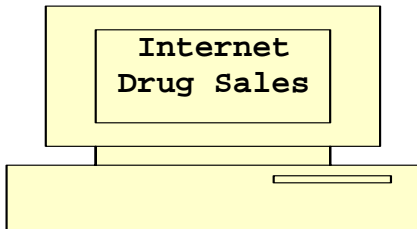
Board Membership

Professor Neil McMeniman, Head of School of Veterinary Science, University of Queensland has replaced Professor Keith Hughes as Deputy Chairperson of the Veterinary Surgeons Board.

Approval is currently being sought for appointment of a consumer representative to the board. This will be the initial appointment of a non-veterinarian to the board and is consequent to amendments to the legislation to allow for such appointment. The appointment of a non-professional was considered essential so as to provide a consumer perspective on the public expectations of the quality of veterinary services and veterinary providers. The bulk of the remaining Australian veterinary boards have had consumer representation for a number of years.

The term of the three current elected members expires in February 2004. The *Veterinary Surgeons Act* provides that from that time the number of elected members will be reduced to two. An additional practitioner member will be nominated by the Minister and will be selected to provide a balance of large and small animal practitioners on the board. Under the previous provisions it was possible, although unlikely, that there could be no practitioner representation on the board. It was however highly likely that the time would come when either small animal or large animal practice was not represented.

By May 2004, the Board will comprise a senior DPI veterinarian as Chairperson, a Deputy Chair from the School of Veterinary Science, two elected veterinary members, a practitioner nominated by the Minister and a non-veterinarian consumer of veterinary services.



Concerns have been expressed by a number of veterinary surgeons that scheduled drug transactions are being conducted through Queensland websites.

The Australian Veterinary Association has also raised these concerns with both Queensland Health and the Veterinary Surgeons Board on behalf of its members.

A number of veterinary surgeons are known to operate companies retailing veterinary products through websites. Queensland Health conducts regular audits of these sites to establish the schedule of all drugs being advertised for sale. Specific complaints are also investigated conjointly by both Queensland Health and the board

To date, no evidence had been found that restricted drugs (S4) are available through these websites. Sale of restricted drugs over the internet is illegal unless the dispensing veterinary surgeon first examines an animal and believes that administration of the restricted substance is necessary as part of that animal's veterinary treatment. In the case of herd animals, the veterinarian must have seen the herd or a particular herd animal recently enough to have acquired from personal knowledge and inspection an accurate picture of the current health status of the herd (or flock) to make a diagnosis and establish a therapeutic need for the treatment.

If restricted drugs are prescribed or dispensed after such examination, the wording that is required to be printed on the label attached to the product container must include the name and address of the dispensing veterinary surgeon. A restricted drug label bearing only the name of the company retailing the product would draw suspicion that the product has been dispensed unlawfully. Schedule 4 drugs are labelled with the header 'Prescription Only Medicine/Prescription Animal Remedy'.

Schedule 5 drugs are described as substances with a low potential for causing harm, the extent of which can be reduced through the use of appropriate packaging with simple warnings and safety directions on the label. The label header is 'Caution'.

The supply of S5 drugs is not restricted and they are freely available from retail outlets, despite some manufacturer's labels containing the words 'For use by veterinary surgeons only'.

Live vaccines are schedule 4 and killed vaccines schedule 5. Many breeders have taken to purchasing schedule 5 vaccines over the internet, vaccinating their animals prior to sale and issuing a vaccination certificate. There is no breach of the *Veterinary Surgeons Act* while the animals vaccinated are in the ownership of the breeder and the vaccination certificate is not worded as a '**Veterinary**' certificate or record and the signing person does not purport to be a veterinary surgeon.

The loss to private practice of this custom is something that must be addressed by the profession itself through public promotion of the benefits of vaccination by a trained veterinary surgeon and with vaccines only available through a veterinary surgeon after a thorough clinical examination of the animal. The statutes administered by Queensland Health and the board are enacted to provide for public health and safety, consumer protection and animal welfare. The relevant authorities have no role in the restriction of any business within the veterinary profession which may have a negative economic impact on other sectors of the profession.

Restriction on use of Specialist title

It is an offence under the *Veterinary Surgeons Act* for a person who is not a registered veterinary specialist to use a title or words that refers to the person as a 'veterinary specialist', or a derivative of the words eg 'specialise'. The offence carries a maximum penalty of \$3,000.00.

Veterinary surgeons should exercise care when developing advertising, stationery and directory listings to ensure the words 'veterinary specialist' are used only in conjunction with those in the practice who are so registered. When conversing with the press, practitioners should beware not to promote themselves as 'specialising' in a particular species, organ system or branch of veterinary science. The accuracy of proposed telephone directory listings is particularly important, as the listing cannot be withdrawn once published.



Offences against Health (Drugs and Poisons) Regulation 1996

Queensland Health has initiated court proceedings against three veterinarians in the past six months. All three were found guilty in a Magistrates Court of breaches of the *Health (Drugs and Poisons) Regulation 1996*.

Case 1 – Two veterinarians were found guilty of administering restricted drugs to persons when not endorsed to so administer the drugs to the other person. The offences occurred over a period of two years and involved a number of staff members of a veterinary practice. One veterinarian was fined \$1,000 and the other \$600, no convictions were recorded.

The Board subsequently considered whether professional misconduct proceedings should also be taken against the veterinarians. After considering written submissions from the offenders the Board determined that the fine and associated legal expenses should be a sufficient deterrent to minimise the risk of the persons re-offending. It was made clear that any re-offence would necessitate referral of charges to the Veterinary Tribunal of Queensland with a recommendation for suspension of registration.

It is timely to remind all registrants that it is unlawful for veterinarians to administer scheduled drugs to humans.

Case 2 – A veterinarian was found guilty of the following offences:

failing to keep a controlled drug in a receptacle that complied with the *Health (Drugs and Poisons) Regulation 1996* (two offences applying to two places of veterinary practice);

failing to keep a record book of controlled drugs; and

failing to enter into a record book the full details of each transaction involving the controlled drug obtained.

The veterinarian pleaded guilty to the charges, was convicted and fined \$2,000 with additional costs of \$1,785.

Professional misconduct action against the veterinarian under the provisions of the *Veterinary Surgeons Act 1936* (section 22F(d) contravening legislation with respect to scheduled drugs) was then initiated by the board. The veterinarian was found guilty and ordered to pay a penalty of \$750.00.

Evidence to the Court was that no safe was installed for the storage of S8 drugs at veterinary premises owned and operated by the respondent. This was despite a submission previously made to the board when applying for approval of veterinary premises that S8 drugs would be stored in a secured lockable safe.

By misleading the board and ignoring repeated bulletins on the responsible management of scheduled drugs, the veterinarian abrogated his professional responsibilities in respect to the health and safety of other persons.

As a result of this case, all applicants for veterinary premises approvals must now sign a declaration that the information given in the submission is true and correct. The brand, model, location and mounting details of controlled drug receptacles of the required specification must also be provided.

The provision of false information in a submission to the board will be construed as professional misconduct in its own right.

The minimum requirements for controlled drug receptacles are provided with the premises application documents and can be provided singularly on request from the board or from Queensland Health.

The Primary Industries Building which incorporates the Veterinary Surgeons Board office has undergone a security upgrade.

Access to the work areas of the building is now restricted to authorized security card holders. If planning a visit to the board office to deliver documents or make payments it will now be necessary prior to the visit to confirm that the office will be staffed at that time to allow entry.

Contact details are shown in the newsletter header.

Queensland Health Random Survey

To demonstrate the extent of disregard by the veterinary profession of the laws regulating the storage and recording of controlled (S8) drugs, Queensland Health have advised of their findings in a random survey conducted in one region of South East Queensland in late 2002.

At 54% of the practices surveyed, veterinarians did not personally possess the keys to the controlled drug receptacle notwithstanding that the keys were located on the premises.

77% of veterinarians who kept controlled drugs were found to have unsatisfactory record keeping practices.

The survey further indicated that not all drug receptacles complied with the minimum requirements of the legislation.

Other Findings

7% of sample labels for 'dispensed medicines' did not comply with legislation.

46% of veterinarians had to be reminded or advised to add 'for animal treatment only' to their example prescription of a restricted dispensed drug.

A number of practices were receiving requests to supply prescription medications for animals that were not under the direct care of the veterinarian. It was stressed that this practice is not acceptable as the animal must be under the care of the prescribing veterinary surgeon.

Practices inspected during the survey were advised in writing of the non-compliance issue.

VETERINARY PREMISES (approvals/sales)

In 2002 all owners of board approved veterinary premises received a certificate of approval to use their premises as veterinary premises.

It is an offence to conduct a veterinary practice, (that is a practice conducted in the name of a veterinary surgery, clinic, hospital, rooms, centre or similar), at premises not approved by the board.

Board approval must be gained not only for new veterinary premises but also for re-location of existing practices to other premises and upgrade of existing premises from rooms to surgeries/clinics, and from surgeries/clinics to hospitals/centres. **A statutory fee of \$100 applies to all applications.**

On approval, a certificate is issued in the name of the approval holder and includes a list of conditions of approval.

On the sale of a practice, an approval will not be re-issued in the name of the purchaser without receipt of a statement from the purchaser that the premises meet the required minimum standards required by the Board at that particular point of time.

That is not to say that the approval existing at the time of sale would be revoked. There are a number of grounds for suspension or cancellation of an approval that must be met.

One is that the premises are not suitable for use as veterinary premises having regard to the established standards. Failure to measure up to one or a number of individual standards would not necessarily indicate that the premises as a whole were not suitable for practice.

As a means of self-regulation by the profession, the purchaser is encouraged to alert the vendor to any shortcomings in standards and negotiate either replacement or upgrade prior to sale or a lowering of purchase cost to allow for replacement or upgrade after sale.

In the case of older practices which may not measure up to modern standards in terms of room configuration and construction, the board can only suggest that construction upgrades be considered as the practice develops under the new ownership.

The guidelines for approval and sale of veterinary premises and the current minimum standards for veterinary premises documents are available from the board office on request.

Footnote: Ownership of veterinary practices by non-veterinarians was legislated in December 2001. To date one approval for veterinary premises has been issued to a non-veterinarian entity, the Animal Welfare League Veterinary Clinic Gold Coast. A limited number of premises approvals have been re-issued in the name of the spouse of a veterinarian. There have been no other applications from individuals or companies from the commercial or private non-veterinary sector.

PHYSIOTHERAPY IN VETERINARY PRACTICE

The
University of
Queensland,
Gatton
Campus,

School of Animal Studies is offering a two year Masters of Animal Studies (Animal Physiotherapy) program commencing in the first semester of 2003. Discussions between the Veterinary Surgeons Board and the program co-ordinator veterinary surgeon have been held to address board concerns that the University is affording the opportunity for non-veterinarians to be trained to perform acts of veterinary science. Those concerns were alleviated as a result of the discussions.

Program participation will be restricted to registered physiotherapists and the overall aim is to provide appropriate training to transfer their physiotherapy skills to animals.

The following are extracts from the course summary provided to the Board.

- 'Animal physiotherapists will have undergone 4 years full time undergraduate training, a minimum 2 years clinical physiotherapy experience and a 2 year Masters program to convert these skills to animals';
- 'Animal physiotherapists will have been made fully aware of the *Veterinary Surgeons Act 1936* and will not practise veterinary medicine';
- 'Animal physiotherapists will not be first opinion practitioners, relying solely on veterinary referral';
- 'Animal physiotherapists will work in a team with veterinarians who will diagnose and provide medical or surgical therapy with the physiotherapist focussing on the functional effects and their management';
- 'Ultimately, the veterinary profession will benefit from the ability to refer patients to appropriately trained professionals, with recognised qualifications and scientifically based practices';
- 'Physiotherapists will not diagnose but rather will provide a functional assessment to identify pain or loss of function. They will use techniques to reduce pain, improve movement and restore normal muscle control'.

The Veterinary Surgeons Board sees positive benefits to the delivery of comprehensive veterinary services to the community but will monitor the extent of involvement of animal physiotherapists in veterinary practice. It will be in a position to raise with the Physiotherapists Board any concerns that physiotherapists are encroaching on the profession of veterinary science without referral from veterinary practitioners. As registered physiotherapists it is unlikely animal physiotherapists would risk disciplinary action by their professional board stemming from their involvement in animal physiotherapy.

The Physiotherapists Board recently asked that veterinary surgeons be informed that it is an offence for any person other than a registered physiotherapist to use the title of that profession.

A large animal practitioner advertising a service offered as 'equine physiotherapy' without having a registered physiotherapist involved in this service was asked by the Physiotherapists Board to desist from using the word or risk prosecution.

Similarly, an animal physiotherapist would be in breach of the *Veterinary Surgeons Act* if the person used the title 'veterinary physiotherapist' or any derivative of the word 'veterinary'.

The names of veterinary surgeons who failed to renew their registration for 2003 by the due date have been removed from the Register of Veterinary Surgeons and the veterinarians are no longer entitled to practise in Queensland.

A number of these veterinarians have not kept the board advised of their current postal address and therefore have been uncontactable.

This demonstrates the need for all employing veterinary surgeons to confirm the registration status of prospective employees before commencement of employment.

Confirmation can be gained from the board office by telephone, fax or email.

The Roll of Veterinary Surgeons will be published on the board website being established during 2003 and will be updated after each board meeting. This will allow quick and easy access to the list of current registrants.

PROSECUTION OF LAY PERSON

The Veterinary Surgeons Board came to know of a person holding himself out to be a veterinary surgeon at Chinchilla and who it was discovered, after direct combined enquiries made by the board and Queensland Health officers, was in possession of restricted drugs and had charged fees for the performance of acts of veterinary science.

A castration procedure on a dog performed by the offender two days before the board and Queensland Health officers' arrival in Chinchilla resulted in the dog bleeding to death after being transported by the offender to a Dalby veterinary practice.

After lengthy questioning **Peter Rivers-Tyrrell** also known as **Peter Rivers** admitted to the performance of veterinary procedures, holding himself out to be a veterinarian, falsification of qualification certificates and procurement of restricted drugs by false representation. A large quantity of restricted drugs, many well past their use-by date, were confiscated.

The board subsequently took charges against Peter Rivers-Tyrrell to the Chinchilla Magistrates Court where he was convicted and fined the sum of \$1500, in default 31 days imprisonment. The level of fine was considered inadequate by the board but the magistrate took into account the respondent's written submissions arguing financial hardship and mental health problems.

Queensland Health chose not to pursue independent charges and a report was submitted by the board to DPI Animal Welfare for scrutiny and possible action.

In February 2003 an inquiry was received from a Sarina commercial business owner as to the bona fides of Peter Rivers-Tyrrell as a veterinary surgeon. He had been employed by the company after representing himself as a veterinary surgeon although the position was not veterinary related. His employment was terminated as a result of the inquiry to the board.

This information is given to alert Queensland veterinary surgeons to the possibility that Peter Rivers-Tyrrell will seek employment in provincial

Queensland under the guise of a veterinary surgeon. Any information on such an event should be reported to the board Registrar immediately.

DISPLAY OF QUALIFICATIONS/TITLES

The board insists that the primary registrable degree of registered veterinary surgeons in Queensland must always be listed first on signage, in advertising and stationery, coming before additional veterinary qualifications, in turn coming before non-veterinary qualifications. Non-veterinary qualifications are not recorded by the board on the Registers.

The use of the description 'MRCVS' is permitted only by those veterinary surgeons who gained membership of the Royal College of Veterinary Surgeons after successful completion of the statutory examination conducted by the college (the equivalent of the National Veterinary Examination of Australia). Membership of the college **gained by examination** is a registrable qualification in its own right in Australia.

College membership in normal circumstances is awarded when registering with the college by payment of a fee and production of evidence indicating the person is the holder of a eligible veterinary science degree recognised by the college.

The Queensland Board believes the use of the qualification 'MRCVS' outside the UK is inappropriate when membership was gained only by way of payment of the registration fee. The use of the title 'MRCVS' by Australian graduates returning to Queensland after a period of practice in the UK could infer superiority over fellow

Premises Signage

graduates whereas it merely indicates professional registration while in the UK.

All veterinary practices are required to display the following signage prominently at premises entry so as to be visible to clients both during practice hours and outside practice hours:

- the names and qualifications of all veterinary surgeons employed at the practice whether permanent, part-time or casual. (The only exception is for locums employed for a period of less than 30 days);

- the days and hours of attendance at the practice; and
- the telephone number and details for gaining immediate out of hours veterinary attention.

CONTROLS OVER USE OF CHEMICALS TO TREAT ANIMALS

Queensland Department of Primary Industries (QDPI) advises that significant changes to the way that veterinary surgeons can use, prescribe, supply and recommend the use of veterinary chemical products will soon come into effect. Details of the changes are provided in the enclosure entitled *'Information for Veterinary Surgeons on Changes to Controls Over the Use of Chemicals to Treat Animals'*.

The changes arose from an agreement between all State and Territory governments to harmonise the controls over the use of these products across Australia.

The administering Department is QDPI and not the Veterinary Surgeons Board. All enquiries should be directed to the contact points advised in the enclosure.

INFORMATION PRIVACY

Visit the website of the Office of the Federal Privacy Commissioner's Office for information on the *Privacy Act 1988 (Cth)* www.privacy.gov.au

The following is an extract from sheet 12 – 'Coverage of and Exemptions from the Private Sector Provisions'

'Entities not covered by the Privacy Act

Small business operators

A small business with an annual turnover of \$3 million or less is a small business operator and so not covered by the Privacy Act unless it:

- is related to a business (that is, its holding company or any subsidiary company) that has an annual turnover of greater than \$3 million;*
- provides a health service and holds health information other than in an employee record;*
- discloses personal information about another individual to anyone else for benefit, service or advantage (unless it does so with the consent of the individual concerned or is required or authorised to do so under legislation);*

- provides a benefit, service or advantage to collect personal information about another individual from anyone else (unless it does so with the consent of the individual concerned or is required or authorised to do so under legislation);*
- is a contracted service provider for a Commonwealth contract (even if it is not a party to the contract);*
- is prescribed by regulation; or*
- opts in to the legislation.*

Good practice tip – small business operators can opt in to the Privacy Act.

Although the Privacy Act does not apply to small business operators, a small business operator may want to take advantage of the benefits that can flow from complying with the legislation. The benefits could include increased consumer confidence and trust in its operations. The Privacy Act provides a mechanism to allow an organisation that is a small business operator to opt into the Privacy Act. A small business operator that is covered by the Privacy Act because it has opted in remains covered until it specifically opts out.'

JOINT AVA/BOARD MEETING

The Veterinary Surgeons Board and representatives of the AVA (Qld Division) met in February for general discussions on a range of issues affecting the profession.

The board's position on continuing veterinary education and internet sales of veterinary products was queried by the AVA. The board raised matters in relation to the professional code of ethics, the promotion of the profession

over non- veterinary providers of animal services and the management of complaints relating to the cost of veterinary services and withholding release of patients pending settlement of account.

As they have in the past, the face-to-face discussions proved valuable and as a result processes are put in place which are beneficial to all concerned.