Focus readers will be aware that the College of Veterinarians of Ontario (CVO) has been discussing legislative reform for nearly four years now. Reform of the Veterinarians Act will be one of the most significant developments in the Ontario veterinary profession in decades. Given the significance of these reforms, OVMA has been monitoring CVO’s activities closely, and has worked hard to keep members informed about the process.

Changes to the Veterinarians Act

A lot has changed since the current Act was introduced in the late 1980s, when the Internet wasn’t commercially available and RVTs were not yet accredited. Thirty years later, veterinary clients have very different expectations regarding both access to medical services for their animals and the information made available by regulatory bodies. It’s also become clear that several provisions in the current Act are no longer relevant, or have unintended consequences that practitioners and clients today would like to see corrected. Examples include lengthy College processes to dismiss frivolous complaints and the Act’s failure to prevent non-veterinarians, such as chiropractors, from independently practicing on animals.

Since early 2016, CVO has been circulating proposals regarding various aspects of a new Act to the profession for consideration. OVMA has consulted members, association committees and the Board of Directors, and has provided feedback to CVO about each of these documents. In July 2017, CVO released a draft document titled “Achieving a Modern Approach to the Regulation of Veterinary Medicine in Ontario.” This document is the centrepiece of the College’s efforts to date. It contains proposals on almost two dozen aspects of the Act, and is one of the final opportunities for the profession to have its voice heard and reflected in the new legislation.

In September, OVMA’s Board of Directors met to discuss the CVO concept paper, review member and committee input, and determine how OVMA should respond to each issue.

The most significant changes being proposed by CVO, and OVMA’s position regarding each of those changes, have been summarized below. This is only an outline of the proposed changes and OVMA’s responses—for full details, visit ovma.org.

Objects of the College:

- **CVO Proposal:** The College’s objects essentially define CVO’s role in relation to the regulation of veterinary medicine. CVO is proposing to add wording to the new Act that would enable the College to adopt, “Any other objects relating to the practice of veterinary medicine that Council considers desirable.” While this addition is intended to provide CVO with the necessary flexibility to effectively regulate the profession in a world that’s constantly changing, it could conceivably enable the College to extend its regulatory authority into areas currently not contemplated by the profession.

- **OVMA Response:** OVMA supports the proposed changes with the provision that the College should exercise caution when considering making use of the new Object (outlined above), and to do so only after extensive consultation with the profession.

Scope of Practice:

- **CVO Proposal:** The new scope of practice shifts to a model based on controlled acts instead of a vague, exclusive scope of practice model. It also establishes a class of regulated veterinary technicians that would be formally recognized in the Veterinarians Act. The new model would ensure that non-veterinarians couldn’t perform high-risk activities on animals without the patient first being assessed by a veterinarian, and without the treatment being referred or delegated to that individual by the assessing veterinarian.

- **OVMA Response:** OVMA has long advocated for measures that would ensure veterinarians are solely responsible for overseeing the diagnosis and treatment of animals where such diagnosis and treatment poses a potential risk to the animal. OVMA supports the proposed new scope of practice model as proposed by the College, and will undertake further discussions with CVO regarding the practical application of the proposed change.

  - Of concern is how the proposed scope of practice provisions will be applied to naturopaths and...
homeopaths. OVMA believes those practitioners should only work on animals that have been referred by a veterinarian.

- Recognition of RVTs as a licensed profession in the Act is supported by OVMA, but the association still has concerns about how the licensure of RVTs will affect CVO Council composition and operations at the College. OVMA will continue its dialogue with CVO on those matters.

Title Protection:
- **CVO Proposal:** That the term “doctor” (Dr.) will be protected, so only veterinarians licensed in Ontario can use the term while providing or offering to provide health care to animals, and that title protection be expanded to include the titles of “veterinary technician” and “Registered Veterinary Technician (RVT)”.
- **OVMA Response:** OVMA supports the protection of the term “doctor” when referring to medical treatment for animals. In addition, OVMA feels it’s important that retired veterinarians can continue to be referred to as “doctor,” and has confirmed with the College that this will be the case. Therefore, OVMA supports this proposal.

Mandatory Quality Assurance Program:
- **CVO Proposal:** Ontario is the only jurisdiction in North America without a mandatory quality assurance (QA) program for the veterinary profession. The first step in establishing a mandatory QA program would be to include this change in the Act. The College has previously shared with OVMA that it won’t propose to institute mandatory minimum CE requirements, but would use a more collaborative QA process.
- **OVMA Response:** OVMA supports the principal of ongoing quality assurance for the veterinary profession. However, the association will reserve judgement on the QA program until program details are made available by the College.

Complaints Screening Model:
- **CVO Proposal:** The College proposes to collapse the roles of the Complaints Committee and Executive Committee relating to investigations into a single committee known as the Investigations and Resolutions Committee. Cases considered frivolous/vexatious or outside CVO’s jurisdiction could be dismissed at intake, and the College would introduce a mandatory, alternative dispute resolution process in certain circumstances, such as financial disputes and misunderstandings related to communication. Lastly, CVO would introduce mandatory education/remediation courses under the Specified Continuing Education or Remediation Program where remediation is deemed necessary.
- **OVMA Response:** OVMA supports the proposal because it addresses long-standing concerns from the profession that the current model is overly complex and slow-moving, and unable to easily dismiss frivolous and vexatious complaints.

Mandatory Reporting:
- **CVO Proposal:** If a veterinarian has reason to believe that another veterinarian is incapacitated by a physical or mental health condition that impairs his or her ability to provide veterinary care, he/she would be required to report that veterinarian to CVO, which would then investigate. The College would ensure that a reported veterinarian would be provided with assistance to address the issue, rather than undertaking disciplinary action against that veterinarian. No action would be instituted against a veterinarian who reported another veterinarian in good faith.
- **OVMA Response:** OVMA is aware of situations where veterinarians who posed a risk to the public due to impairment issues have gone from practice to practice because no one wanted to report them to CVO. The current proposal reflects OVMA input on a previous proposal, which would have required practice owners to make a report based on perceived incompetence. OVMA supports the revised proposal, but still has concerns about how this proposal will be implemented, and has relayed those concerns to the College.

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Interim Suspensions:

• **CVO Proposal:** CVO is proposing that the College be allowed to suspend or impose terms on a veterinarian’s ability to practice, if it’s determined that a veterinarian could expose a client or patient to physical harm, in cases where allegations have been referred to the Discipline Committee. This will help the College more effectively deal with situations where urgent action is required to deal with a veterinarian who poses a threat to his or her patients or clients.

• **OVMA Response:** OVMA supports this proposal, and has recommended that an interim suspension may be imposed if the College believes that a “veterinarian’s conduct exposes or is likely to expose any animal(s) or his or her client(s) or practice employees to serious harm or injury.”

Notice of Hearings:

• **CVO Proposal:** CVO is proposing the publication of discipline hearing dates, names and allegations as part of the College’s public registry.

• **OVMA Response:** OVMA opposes publication of discipline hearing dates, names and allegations as part of the public registry because including such information as part of a veterinarian’s formal record could lead the public to believe the veterinarian has been found guilty before the College’s decision has been rendered.

Expanded Public Register:

• **CVO Proposal:** CVO is proposing to publish information about a veterinarian’s remedial undertakings, criminal charges, convictions and bail conditions in the College’s public register.

• **OVMA Response:** At OVMA’s request, the College removed a previous proposal to include the outcome of accreditation inspections in the register. However, OVMA continues to oppose the inclusion of criminal charges in the register (it should include convictions only). In addition, OVMA has proposed that the College consider the following options:
  - Where a veterinarian has been found guilty of misconduct, the register should include sufficient information to appropriately inform the public about the nature of the infraction.
  - There should be a set time (i.e. 10 years) after which items in the register could be removed, if requested by the licensee.
  - Only criminal convictions that take place after the new legislation is enacted and while the individual is a licensed veterinarian should be included in the register.
  - Convictions that are listed in the register should include details about the conviction.

Council Composition:

• **CVO Proposal:** The College is proposing to change the composition of College Council, as set out below:

<table>
<thead>
<tr>
<th>Current CVO Council</th>
<th>Proposed CVO Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>9-15 veterinarians</td>
<td>11-13 veterinarians, including one veterinarian from OVC faculty</td>
</tr>
<tr>
<td>3-5 public interest representatives</td>
<td>7-9 public interest representatives</td>
</tr>
</tbody>
</table>

This change reflects an international regulatory trend and addresses challenges faced by CVO in terms of having insufficient public members to serve on College committees. It would also ensure that public interest members are not serving on more than one committee, which could lead to conflicts of interest.

• **OVMA Response:** OVMA supports the proposed Council composition, provided that veterinarians continue to make up a majority of Council members to ensure the profession continues to be truly self-regulated. If RVTs are to be regulated by CVO, there shouldn’t be more than two RVTs on Council, and any RVTs that are added should not take away from Council positions occupied by veterinarians.
Committees and Panel Composition

- **CVO Proposal:** To accommodate other legislative amendments, there will be changes in the Act regarding the College’s committees, such as the establishment of a Quality Assurance Committee to design and administer the new QA program, and establishing the Investigations and Resolutions Committee to replace the Complaints Committee. Other changes being proposed include changing the composition of the Discipline Committee’s panels from three people to between three and five members. These changes would ensure that discipline panels continue to have enough members if some are unable to remain on the panel.
- **OVMA Response:** OVMA has no concerns with this proposal and supports the proposed changes.

Ministerial Powers:

- **CVO Proposal:** The College is proposing to include provisions in the Act that would provide the Minister of Agriculture, Food and Rural Affairs with several new powers, including the power to review and/or investigate the management of the College and audit its books, and appoint a person as a College supervisor. The supervisor would have the authority to exercise all the powers of the Council and every person employed at the College. These changes increase oversight of CVO, and ensure improved public protection.
  - The power to appoint a supervisor is common across the provincial government. Hospitals, school boards, colleges regulated under the Regulated Health Professionals Act, and other agencies are all subject to this provision, which is intended to give the Province the authority to address a worst-case-scenario situation where an agency has lost its ability to effectively oversee its affairs.
- **OVMA Response:** Given that these powers would only be used in extraordinary circumstances, and that a supervisor could be requested by OVMA if required, OVMA supports this proposal.

Investigator Appointments:

- **CVO Proposal:** Under the current Act, the registrar can appoint an investigator with the approval of the Executive Committee, but the Complaints Committee doesn’t have the authority to appoint an investigator. The College is proposing that an investigator could be appointed by the new Investigations and Resolutions Committee (IRC) to investigate a complaint received by the College if the registrar believes that a veterinarian has committed an act of professional misconduct, or if the Quality Assurance Committee is concerned that a veterinarian exhibits serious at-risk behaviour and has referred the matter to the IRC.
- **OVMA Response:** Historically, there’s been a “firewall” between CVO QA programs and the complaints and discipline processes, to assure veterinarians that any findings from the QA Program could not be used against him/her. While OVMA understands that CVO is proposing to transition from a voluntary QA program to mandatory QA participation by all Ontario veterinarians, OVMA has serious concerns about the removal of this firewall and will be requesting clarification from the College.

Investigator Powers:

- **CVO Proposal:** During an investigation, an investigator may currently “inquire into and examine the practice of the member...and may, upon production of his or her appointment, enter at any reasonable time the business premises...make reasonable inquiries of any person and examine documents and things relevant to the subject matter of the investigation.” The College proposes to more clearly define what activities an investigator may engage in, including:
  - Inspecting/observing the practice of veterinary medicine by a veterinarian or auxiliary.
  - Taking photographs or recordings of the practice of veterinary medicine.
  - Conducting tests that are reasonably necessary.
  - Removing original versions of evidence.
  - Copying data, removing and testing anything relevant to the investigation.
  - Requiring a person to produce documents, data or equipment relevant to the investigation.
- **OVMA Response:** OVMA feels that two of the proposed powers—allowing an inspector to observe the practice of veterinary medicine, and taking photos, videos or audio recordings—represent an unnecessary intrusion by CVO. An investigation should be conducted on the basis of a specific complaint relating to an action that has already occurred. This doesn’t require ongoing observation of a veterinarian in practice. OVMA will also seek clarification as to what CVO means by “tests that are reasonably necessary.” Lastly, OVMA is recommending the following limitations on some of the proposed powers:
  - Any documents to be copied will be done so at the College’s expense.
  - An investigator may only remove a document or object if it’s not practicable to copy it in the place where it’s examined, or a copy of it isn’t sufficient for the purposes of the investigation.
  - If it’s practicable to copy a document or object removed from the practice, the investigator will return the document or object within a reasonable time.

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– If a copy isn’t sufficient for the purposes of the investigation, the College will provide the person who was in possession of the document or object with a copy of it within a reasonable time.

Confidentiality and Immunity:

• **CVO Proposal:** Those involved in the administration of the Act at the College (staff councillors, committee members, etc.) are bound by a variety of confidentiality provisions regarding the information that comes into their possession as a result of their activities. The College is proposing to expand its current exemptions to more specifically state that information can be disclosed to a police officer during the course of an investigation, if deemed necessary to protect the safety of animals or people, and that the College can disclose information to the media, when appropriate. This would clarify handling of situations where a veterinarian is suspected of breaking the law. In addition, the College proposes to amend the confidentiality provisions to prevent evidence generated as part of a CVO investigation from being used in a civil proceeding. This would reduce the likelihood that a veterinarian being investigated by the College will face double jeopardy in civil court.

• **OVMA Response:** OVMA’s Board of Directors strongly supports this proposal, particularly the measures to limit the use of evidence generated as part of a CVO in a civil proceeding.

Annual General Meetings

• **CVO Proposal:** The College is proposing to no longer be subject to the Corporations Act, which would eliminate its obligation to hold an Annual General Meeting (AGM). AGMs are generally held by private corporations with shareholders, or member organizations such as OVMA. They are generally not held by regulatory bodies. For example, none of the colleges for Ontario’s human health professions are required to hold an AGM. The College contends that holding an AGM contributes to confusion about CVO’s role as a regulator.

– While the loss of the AGM may seem significant, historically very few veterinarians (outside of CVO council and committee members) have attended the meetings. Very little College business is transacted at the AGM, apart from approval of the audited financial statements and appointment of an auditor for the College.

• **OVMA Response:** OVMA neither supports nor disapproves of the proposed loss of the CVO AGM. OVMA is more concerned about how effectively the College communicates with Ontario veterinarians over the course of the year. OVMA has indicated to CVO that, irrespective of what happens to the AGM, the College needs to continue to publish its annual report/audited financial statements, and provide opportunities for members to discuss current developments at the College with CVO representatives.

Offences and Fines:

• **CVO Proposal:** The College is proposing to update the amount of fines in the Act, as well as adding new provisions regarding fines that could be levied, including:
  – Strengthening the unauthorized practice provisions to reflect the changes to scope of practice.
  – Instituting fines for corporate employers.
  – Establishing fines for contravening the proposed mandatory reporting requirement where a veterinarian believes that another veterinarian is unfit to practice.
  – Establishing fines for not cooperating with investigators.

**ANALYSIS:** Under the current Act, there is a wide range of fines, from $5,000 for some offences, to $30,000 for repeat offences. The College is proposing to increase fines from $25,000 to $50,000 for most offences, and up to $200,000 for repeat offences by corporations.

• **OVMA Response:** OVMA does not oppose the proposed increase in fines generally, as many of the fines pertain to individuals or corporations practicing veterinary medicine without a license. However, given that the mandatory reporting provisions are new to Ontario veterinarians, OVMA has recommended to CVO that the fines for failing to do so be significantly reduced.

If members have any questions regarding the consultation document for the new Veterinarians Act or OVMA’s responses, contact OVMA’s Manager of Government and External Relations, John Stevens at jstevens@ovma.org or 800.670.1702, ext. 24.