



Submission Draft Veterinary Services Bill 2022 South Australia

Submission of the
Australian Veterinary Association Ltd

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Veterinarians are an integral part of the fabric of our community. They manage the health and welfare of our livestock that are crucial to our international trade and to the safety and security of our food, and they work in our public health sector on managing disease risks to animals and people alike. They care for the companion animals that are increasingly part of our families.

The Australian Veterinary Association (AVA)

The Australian Veterinary Association (AVA) is the national organisation representing veterinarians in Australia. The AVA consists of members who come from all fields within the veterinary profession. Clinical practitioners work with companion animals, horses, farm animals, such as cattle and sheep, and wildlife. Government veterinarians work with our animal health, public health and quarantine systems while other members work in industry for pharmaceutical and other commercial enterprises. We have members who work in research and teaching in a range of scientific disciplines. Veterinary students are also members of the Association.

Background

The AVA is pleased to comment on the draft *Veterinary Services Bill 2022* and thanks the Minister and the Department of Primary Industries South Australia (PIRSA) for undertaking it.

Legislation relating to the veterinary profession differs across the states and territories in Australia and it should be an aspiration of all Australian veterinary boards to work towards harmonisation of legislation - similar to the human health professions that introduced legislation in 2010 to allow national regulation of their professions.

It is in the interests of all veterinarians that the profession be regulated. It ensures that the public can have confidence when they receive services from registered veterinary professionals. The AVA, as the professional association for veterinarians, has a strong commitment to the delivery of quality veterinary care. We demonstrate this commitment on a daily basis with our Continuing Professional Development programs, accreditation programs, and our mentoring.

The veterinary profession in South Australia has a strong record of service in safeguarding animal health and welfare, and providing exemplary service to animal owners and the community broadly. The Veterinary Services Regulatory Board of SA Board (Board) has an important oversight role, however the high level of integrity of our veterinarians must also be acknowledged.

As a group of dedicated professionals, veterinarians have a keen interest in, and strongly support, a properly regulated professional environment. As a principle however, we believe that the profession can and should self-regulate within a legislative framework. Consistent with this principle, the AVA recommends that the majority of the members of any regulatory body should be veterinarians.



Summary

The AVA strongly supports proposed amendments to the Act that:

- Require the presiding member be a veterinarian
- Increase transparency of the Board, including publication of appointments
- Clarifies that, “variety of fees for registration can be set and may be applied in a pro-rata manner.”
- Enables the Board to register veterinarians with adjusted conditions and adjusted fees to accommodate non-practicing veterinarians (whether retired, on parental leave, or otherwise)

The AVA is pleased to see many of the issues that we raised in our submission to the 2020 review of the Veterinary Practice Act (many of which were supported by the broad range of respondents to that consultation) have been adopted in this legislation.

In the below sections we discuss a number of issues and suggested amendments to the draft Bill:

- Scope
- Definition of veterinary services
- Membership of the Veterinary Services Regulatory Board of SA
- Functions and powers
- Accounts, audits and reports
- Executive Officer and other staff
- Registration of premises

Finally, we address two issues that, while not necessarily appropriate for this Bill, should be considered in the future. These are registration of paraprofessionals and the potential for a two-tiered process with respect to SACAT.

Discussion

In the below sections we discuss a number of issues and suggested amendments to the draft Bill.

Scope

The long title of the Act is proposed to be expanded to include reference to, “... premises at which veterinary services are provided...”. The AVA supports this, however there are a number of other elements of the scope of the Act that should also be amended. These are:

- Replace ‘high standards’ with ‘minimum standards’
- Use of the term ‘protect’ should be revised

Each of these are considered in more detail below.

Replace ‘high standards’ with ‘minimum standards’

While the AVA strongly supports a high standard of care being available to consumers and their animals, the regulation of the veterinary profession needs to focus on maintaining the minimum level of standards that can underpin the broad spectrum of care options available.

The provision of veterinary care operates in a private market. There is not public funding for the delivery of veterinary services. This means that the costs of animal healthcare are borne by the owners of those animals. However, while not everyone can afford to pay for ‘gold standard’, their animals should not be denied veterinary care because regulation artificially elevates the standards of care available.



By establishing a minimum standard, veterinary regulation creates a floor below which veterinary standards of care cannot drop. It also provides a base platform upon which veterinary businesses can offer a range of services that meet the health needs of the animal and the consumers' ability to afford.

Use of the term 'protect' should be revised

The Act uses the phrase in its scope and in the Objects (S14) that states, "...to protect animal health, safety and welfare and the public interest...". This language is somewhat unique in veterinary legislation across Australia (only ACT uses similar wording). It carries the connotation that the role of the regulation and the Board is to protect the public and animals from veterinarians.

The maintenance of standards of veterinary care is a partnership between legislators, regulators, veterinarians and the veterinary sector. As professionals, veterinarians have a strong interest in ensuring that the value of the profession is maintained. By doing so, the social licence under which veterinarians operate is maintained and quality veterinary care is available to animals within our community.

Recommendation

- Reference in the Scope (and other parts of the Act) should be amended to replace 'high standard' with 'minimum standard'.
- That the term, "protect", in the Scope be replaced with, "promote".

Definition of veterinary service

The Definition of veterinary science is proposed to be:

Veterinary service means a service which forms part of the practice of veterinary surgery or veterinary medicine and includes:

- (a) the diagnosis of a disease or physiological conditions in, and an injury to, an animal; and**
- (b) the medical treatment of animals; and**
- (c) the administration of an anaesthetic to an animal; and
- (d) the castration or spaying of an animal; and
- (e) the performance of an invasive or surgical procedure on an animal; and**
- (f) any other act or activity of a kind declared by the regulations to be veterinary treatment, but does not include anything excluded from the ambit of this definition by the regulations.

The AVA generally supports this definition, however notes that 'animal' in point (a) should be amended to 'animal(s)' to recognise those instances where veterinary services and treatment is provided on a flock or herd basis.

Recommendation

- 'animal' in point (a) should be amended to 'animal(s)'



Membership of the Veterinary Services Regulatory Board of SA

The AVA supports the broad changes to the composition of the Board and the powers of direction and removal. We strongly support the changes that will require the presiding member of the Board to be a veterinarian. The Presiding Member of the Board has a very influential role in the operation of the Board as well as a leadership role within the South Australian veterinary profession. Ideally, the Board should leverage the value of respected members of the veterinary profession for this. While an understanding of legal processes (as they relate to Board actions) is important, a deep understanding of the veterinary profession is crucial. This kind of familiarity can best come from an experiential understanding.

All Board members need to have a appreciation of veterinary practice as well as an understanding of Board processes and governance requirements. The composition of the Board also requires it to have a mix of skills and experience. It is important that it have a multidisciplinary make up. This is the case around the country and in SA where both veterinary practitioners and suitably aware lay members are included on veterinary boards. Further, to support the continuity of the Board and internal corporate knowledge, it is recommended that the Board terms are not all synchronised. Instead, one third of the Board terms should end each year.

With respect to the veterinarian members of the Board, there should be a mix of veterinary members with knowledge and experience in key areas of veterinary work relevant to the Board operations. The draft Bill provides a balance stating:

Veterinarian members (6): The Minister should, as far as reasonably practicable, endeavour to ensure veterinarian members have the skills, knowledge, and experience in the following areas:

- management or governance
- teaching of veterinary science
- government agencies responsible for protecting animal health (whether State or Commonwealth)
- urban companion animal practice
- rural mixed or production animal practice
- another area that the Minister considers appropriate to enable the member to effectively carry out the functions of the Board.

The one notable omission from this list is equine or performance animal practice. The AVA recommends that this be added to the list of skills, knowledge and experience.

Finally, the AVA is disappointed that the draft Bill removes the role for the association in nominating a member of the Board. The AVA has taken its role in providing a nominee to the Board very seriously. We recognise that we are not nominating a representative, but rather a veterinarian that, in the view of the Association, will bring to the Board the skills and experience that are needed for the role. For instance, there have been periods in recent history where there would have been no general practitioner in small animal practice had it not been for the AVA nominee. This group makes up the largest segment of the profession and thus the majority of issues dealt with by the Board involve this segment. Being



conscious of this, the AVA deliberately sought to address this by ensuring our nominees at the time were able to fill this gap.

While we would prefer to retain the formal nominee, if this is not included in the final legislation, we request that a clause be added to require the Minister of the day to consult with the AVA on all veterinarian appointments to the Board. A similar provision has been included in the recent changes to the WA legislation.

Recommendations

- That the list of skills, knowledge and experience for the veterinarian members of the Board be expanded to include, “equine or performance animal practice”
- That a clause be added requiring the Minister of the day to consult with the AVA on all veterinarian appointments to the Board
- That the Board terms are not all synchronised. Instead, one third of the Board terms should end each year.

Functions and powers

The expansion of the functions of the board are strongly supported by the AVA and address a number of the key challenges that the profession has had with its regulatory body in recent years. In particular 15(1)(h) and 15(1)(i):

15—Functions

- (1) The functions of the Board include—
 - (a) to determine applications for registration for the purposes of this Act; and
 - (b) to recognise courses of education or training that provide qualifications for registration on the general register or the specialist register; and
 - (c) to determine the requirements necessary for registration on the general register or the specialist register; and
 - (d) to determine the specialties in which a person may be registered on the specialist register; and
 - (e) to prepare or endorse codes of conduct, professional standards and guidelines for the purposes of this Act; and
 - (f) to prepare or endorse a standard relating to minimum requirements for registered premises; and
 - (g) to provide advice to the Minister as may be appropriate or requested by the Minister; and
 - (h) to provide information and advice to veterinarians and the public about relevant legislation, codes of conduct, professional standards and other standards and guidelines prepared or endorsed by the Board; and
 - (i) to confer and collaborate with other veterinary regulatory authorities to ensure effective national exchange of information and promote uniformity and consistency in the regulation of veterinarians within Australia; and
 - (j) to carry out other functions assigned to the Board by or under this Act, or by the Minister.



Standards of practice in the veterinary profession are increasingly developed and maintained at national and international levels. A central part of the role the community needs from the Board is to be part of the development of nationally consistent standards. With its resignation from the AVBC, we believe the Board has moved away from this goal. The effects of this are further evidenced through increased CPD requirements that are 50% higher than requirements elsewhere in Australia and New Zealand. It is essential that all veterinary practice boards in Australia work closely together to harmonise regulation and leverage the value of pooled resources.

Further, as noted in the discussion paper:

Sufficient communication between the Board and the profession is considered necessary to fulfill the objects of the Act. Enabling vets to fulfil their obligations readily and confidently can only be beneficial to animal health, safety, and welfare, and public interest. The provision of information and advice to enable veterinarians to understand their obligations, learn from the shortcomings of others, maintain professionalism, and avoid complaints, directly supports the object of the Act.

Similarly, it is considered of great value to the public to readily understand what is considered appropriate conduct.

The public and the profession are generally not skilled in interpreting legislation, and support should be provided of a general nature. Veterinarians are likely to be complying with dozens of different pieces of legislation at any one time, therefore, adequate support and communication is vital and should be readily provided for the purpose of better fulfilling the objects of the Act.

The AVA appreciates this recognition that educative and collaborative approaches to regulation are core functions of the Board, rather than a simple punitive approach that focuses solely on compliance.

As detailed in the discussion above on Scope, the AVA considers that the Objects (s14) of the proposed Act should be amended to reflect the language and approach used in the new functions. The objects in the Bill are consistent with the existing Act and states:

14—Objects

The Board must exercise its functions under this Act with the object of protecting animal health, safety and welfare and the public interest by achieving and maintaining high professional standards both of competence and conduct in the provision of veterinary services in this State.

There are a number of elements that the AVA recommends be amended. In particular the use of the term 'protecting' and the use of the term 'high professional standards', as discussed earlier in this submission.

Further, there are a number of other considerations that should be included in this part, including the below text used in the NSW legislation:

- *to ensure that consumers of veterinary services are well informed as to the competencies required of veterinary practitioners,*



- *to ensure that acceptable standards are required to be met by veterinary practitioners so as to meet the public interest and national and international trade requirements,*

Recommendation

- That the objects be amended to:
 - Replace the term ‘protect’ with ‘promote’
 - Replace the term ‘high professional standards’ with ‘minimum professional standards’
 - Addition of reference to educating the public
 - Addition of reference to national and international trade requirements

Accounts, audits and reports

Annual Reports should be sent to all registrants and contain more information than is currently provided in the Veterinary Surgeons Annual Report to Parliament. Recent reports have been limited in content and are more procedural than informative to veterinarians or the public. These are practices that we expect from many companies and organisations in our community. The Board should be no different in this regard.

There are a range of additional items that should be included in the Annual report. This requirement may be included in the Act or in the regulations, but should include:

- The number of news complaints in the past year
- The number of complaints carried over from the previous year
- The average time taken to complete complaints
- The number of complaints still unresolved after (3, 6, 9, 12, 18 months)

Executive Officer and other staff

The proposed legislation provides greater guidance on the operations of the Registrar. The functions are:

1. establish and maintain the registers contemplated by this Act; and
2. to manage the staff of the Board; and
3. to give effect to the policies and decisions of the Board; and
4. to carry out other functions assigned to the Executive Officer by or under this Act, or by the Minister or the Board.

This is appropriate. However, in the interest of national consistency, we recommend that the title of the role remain, ‘Registrar’.

Recommendation

- That the title ‘Registrar’ be retained in place of ‘Executive Officer’

Registration of premises

The existing regulation of veterinary hospitals in South Australia simply regulates those premises that use the term ‘hospital’. A facility may be a fully operating hospital in all but name, and not be included under the registration requirements. A more consistent approach is needed.



The regulation of premises is desirable under the Act. There is acknowledgement that cost of inspection can be a limiting factor for boards in smaller jurisdictions. Boards should be allowed to decide how they audit and inspect practices. For example:

- inspections when applying to open premises
- inspections every 3 or 5 years
- self-inspection lists sent out in intervening years
- inspection when a complaint is received.

We support the intention that the standards developed for premises, “is intended to enable the Board to set minimum requirements and impose conditions on premise registration where required. It is not intended to enable a differentiation in the marketplace”. However, it is also important that the standards offer a degree of flexibility or applicability to a variety of veterinary business models. While the majority of veterinary services may be provided in physical clinics or hospitals, there are an increasing number of alternative models. Mobile veterinary practices and mobile euthanasia practices, as well as veterinary care in remote South Australian communities provide important services to the community.

Further, the standards that are set should focus on hospital physical attributes rather than business processes.

Finally, the legislation should seek to leverage existing professional accreditation schemes to minimise the need for it to expend its own resources. The AVA, through its Australian Small Animal Veterinarians (ASAV) Special Interest Group, has a veterinary hospital accreditation system that is widely accepted throughout Australia and the accreditation requirements exceed the current requirements of the VSBSA hospital accreditation scheme in South Australia. The AVA sees no need for a duplicate scheme in South Australia. Accreditation under the ASAV scheme should be sufficient and negate the need for the Board to inspect these premises.

Future issues for consideration

SACAT

The SA Civil Administrative Tribunal (SACAT) took over the determination of disciplinary matters from May last year. This means that the Board needs to apply to SACAT for any findings of unprofessional conduct and only SACAT has the power to impose fines and suspend/cancel registrations on disciplinary grounds. WA has had that system and their new proposed legislation is moving towards giving the Board power again to deal with less serious disciplinary matters. This mirrors the approach in other states that also have civil administrative tribunals.

There is a significant risk that legal costs will increase with the VSBSA needing to use SACAT for all disciplinary matters. This was the experience in Western Australia where they moved to a similar tribunal approach in 2005. Recent proposed changes in WA are recommending that the Board regains the powers to deal with minor disciplinary matters that were lost when the State Administrative Tribunal (SAT) was established in 2005, including the imposition of penalties such as a fine or reprimand. The AVA supports a two-tier system of unsatisfactory professional conduct and unprofessional conduct where the Board can make orders against veterinarians found to have engaged in unsatisfactory professional conduct, with the upper tier of unprofessional conduct referred to the SAT.



Hearings that are conducted for unsatisfactory professional conduct should include veterinary practitioners with expertise in the relevant conduct being assessed (hence the importance of a diverse range of veterinarians on the Board). The Board should be empowered to create discipline review committees that can also co-opt external expertise for this purpose.

We recommend that the lower tier of unsatisfactory professional conduct should focus on correcting the conduct, rather than punishment – unless the conduct is repeated. Directions of further education and training, imposing a condition on registration are preferable and should be included in the options available. Fines should be considered in the context of the fiscal environment of the profession and veterinarians should have the right of appeal to SACAT.

Registration of paraprofessionals

The AVA supports the regulation of veterinary nurses and veterinary technicians. AVA policy states:

All animal health service providers, including veterinarians, paraprofessionals and non-veterinary animal health providers should be appropriately regulated to ensure adequate animal welfare and consumer protection.¹

Further, AVA policy states:

All persons using the title 'Veterinary Nurse' must possess veterinary nurse qualifications and conform to standards appropriate to professional veterinary practice.

The standards should be subject to regular review by a national professional body.

The Veterinary Nurses Council of Australia (VNCA) and their Australian Veterinary Nurses and Technicians (AVNAT) Registration Scheme are recognised and supported by the Australian Veterinary Association.²

Paraprofessionals should be regulated under veterinary practice acts. Registration should include obligations and responsibilities for both the paraprofessional and the supervising veterinarian.

The ongoing advances in veterinary nursing knowledge and skills, including the work, health and safety requirements of the role, necessitate, in the public interest, that the title 'Veterinary Nurse' should be restricted to those who are suitably qualified.

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¹ AVA Policy - Regulation of animal health service providers (<https://www.ava.com.au/policy-advocacy/policies/accreditation-and-employment-of-veterinarians/regulation-of-animal-health-service-providers/>)

² AVA Policy - Veterinary nursing (<https://www.ava.com.au/policy-advocacy/policies/accreditation-and-employment-of-veterinarians/veterinary-nursing/>)