

Clerk to Bills Committee on Veterinary Surgeons Registration (Amendment) Bill 2014
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Dear Sirs,

Bills Committee on Veterinary Surgeons Registration Cap 529 (Amendment) Bill
2014

I commend the Legislative Council on their willingness to receive submissions to improve the manner in which the veterinary profession is managed in Hong Kong.

It is our submission there are at least three prerequisites for a fair composition of a veterinary board:

1. That the members and staff must understand the profession they oversee;
2. That the people on the board are willing to put in the effort required to raise the standards of the profession;
3. And that the people running the board are willing to negotiate in good faith with all the stakeholders.

It is my submission the majority of the Board members ought to be veterinarians who understand the profession. The need for increased quality of decisions made by the VSB can only be achieved by an increase in the number of practicing veterinarians making them ie professionals with current knowledge of the industry and public sentiment and need. The large number of VSB subcommittees dealing with the numerous professional issues require veterinarians, not lay people - you can only divide the current number of vets so many times to such committees before depletion occurs.

It is my submission that **at most one lay person** on the Board is sufficient to ensure that the interests of animal owners are protected and transparency in decision making occurs. An uninformed lay person would having no idea of what the veterinary profession entails would be a hindrance in Board discussions as the veterinary members would need to spend an inordinate amount of time to explain to the lay person what a reasonable veterinarian would do in each and every circumstance. Lay persons on the board can only take advice given by those of the medical profession, they are not in the position to judge or even question advice given by those within the profession about our profession, they can only use common sense to see the fairness in such advice or ask for a second opinion.

We live next to Guangdong province one of the most densely populated areas in the world with some of the world's poorest hygiene standards especially in their food-production industry. The scenario when we actually have a real national scale animal/human health disaster for example Anthrax could result in disastrous consequences for the region . How could lay-people that are not trained in the scientific method know guide an animal health professional industry into the future. This is a real danger and a board dominated by lay people is woefully insufficient to give advice to the government or the public, hence endangering public health.

The proposed legislation without further changes still falls woefully short of the required number of veterinarians when compared to the Hong Kong Medical or Dental Council. This is not acceptable.

In all spheres of public life there has come to be abuse of the Charity's ordinance. This is glaringly obvious when we look at so called private hospitals in Hong Kong. The same is happening in the Veterinary sector . There are supposedly not for profit groups that have none of the entry requirements stipulated by so many well respected charities abroad. Charitable groups in Hong Kong have no means test and no way of determining whether or not a client is truly indigent. Indeed it is my opinion that they use their charitable status merely as a tax shield and the board should be requiring them to open their books to the public and have a means test instituted . Until such a time that this happens they are merely cynically taking advantage of a poorly regulated system and the end result is an unfair competitive advantage over private veterinarians . Furthermore , there is profligate abuse of the advertising rules of the "Code of Conduct" , by advertising as a not for profit clinic the insinuation in the mind of the public is one of cheaper services. This practice needs to stop . Welfare groups must be compelled to be audited and their sources of funding and expenditure of that funding brought out into the open so as not to mislead the public . **Increasing the numbers of lay people on the board could be construed as a cynical attempt to shield these non profit groups from the scrutiny that they so truly deserve.**

It is my submission that the VSB and Cap 529 enshrine four principles.

The first principle is that the professions in Hong Kong ought to be "self-regulatory". Self-regulatory means that the government entrusts the regulation of the profession *to* the profession. It is a tacit social contract between the profession and society in which society grants the profession the freedom to self-determination in exchange for the profession's undertaking that the profession will be responsible and trustworthy in regulating itself. The profession in turn entrusts the regulation of the profession via a second tacit agreement to a small group of volunteer 'regulator veterinarians' – veterinarians who think they have the 'right stuff' to do the job. It is the profession that appoints the small group of regulator veterinarians and which requires them to behave in a responsible and trustworthy fashion in overseeing the profession. The profession merely hands over *temporary custodianship* of the profession: it does not hand over ownership. If the small group of regulator veterinarians do not act in the best interests of the profession and the public, then they are in breach of their tacit agreement with the profession, and the profession in turn is in breach of its tacit agreement with the public to properly regulate itself.

The second principle that needs to be understood is that veterinary boards are supposed to act as *neutral* regulators, not as *biased* consumer protectors. There has been a move by a number of veterinary boards in recent years towards becoming consumer protectors. One can understand why this would be attractive to the small group of regulator veterinarians: it removes the authority that the profession has over them. The profession expects their veterinary board to be neutral and unbiased in its actions, and any move to prejudice the profession – and to reduce the authority that the profession has over the regulator veterinarians - must be seen to be a clear violation of the profession's rights to proper regulation and a serious breach of the tacit agreement with the profession. The profession needs to take back control of the profession from the small group of regulator veterinarians.

The third principle is that the regulator veterinarians serving on the board are obliged to manage the board using best practice principles for regulatory authorities. Regulator veterinarians may not assume personal ownership of a board, to do with the board as they wish: in terms of the tacit agreement with the profession, they undertake to use leadership and management skills to ensure that the board strives to meet world best practice standards. They are obliged to be transparent, open and accountable. They are obliged to utilise sources of information that will bring their procedures, including disciplinary procedures, and State veterinary legislation to meet best world standards. The HKVSB fails to properly meet any of the aforementioned nine standards.

The fourth principle is that the overriding function of a veterinary board is to balance the rights of the public with the rights of the profession. For the veterinarian faced with board disciplinary proceedings, this means that the board must treat the veterinarian as a professional person of standing, respecting all the rights and principles that a veterinarian should be accorded, considering that his or her registration has been placed under threat. This includes using every measure possible to ensure that accused veterinarians receive all the possible benefits provided by human rights, fair administrative action and natural justice and all the possible protections contained in the principles of *probable cause* and *due process* and proper application of *the reasonable veterinarian test*, including proper pre-screening, investigation and referral to a tribunal. Any justice system is only credible if it fully safeguards the rights of the accused. Over and above the rights that an owner should have in being able to make a complaint about the professional conduct of a veterinarian, the public also has an interest in a disciplinary process that is fair and credible. A conviction is only credible if the accused veterinarian has been afforded all reasonable protection.

In summary, the public's interests are best served by veterinarians who are confident and can help them to make the best decisions for their animals at the least cost. The public's interests are not served by a profession that is too fearful to make any errors, ties owners up with all sorts of liability-excluding measures and refuses to make a diagnosis until every conceivable test excludes every other conceivable possibility, in order to exclude any risk of making an error. Because if the HKVSB is not soon

drastically reformed, that is the way in which veterinarians in Hong Kong are going to be forced to practice. This leaves only one option, and that is for the Hong Kong profession to regulate themselves.

Yours faithfully,

Dr. Paul George Essey BVSv MRCVS MVS