

Written Submission to Bills committee on Veterinary Surgeons Registration (Amendment) Bill 2014

November 2014



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Introduction

The Veterinary Surgeons Board (VSB) has been operating since 1997. The impetus for the present proposed amendments, is as a result of several significant complaints received by the Board about its *modus operandi*, and a subsequent review conducted by the Agriculture, Fisheries and Conservation Department (AFCD). Clearly there is much room for improvement and it is the view of City University's School of Veterinary Medicine that the proposed amendments are both timely and necessary.

Background

Summary of Recommendations

Short term

- (i) Strengthen support to VSB by providing the VSB Secretariat with suitable veterinary support and providing additional support staff including appointing a CEO to administer the Board; (partly completed)
- (ii) Create more Preliminary Investigation Committees (PICs); (achieved but can be further improved)
- (iii) Create PIC advisory committees; (partly achieved)
- (iv) Draw up a list of specialist clinics and veterinary schools that can offer expert advice; (incomplete)
- (v) Create performance pledges for PICs, Inquiry Committees (ICs), and Registration Committee; (incomplete)
- (vi) Review Registration and Disciplinary Proceeding Rules and devise guidelines for placing time bars for provision of information/response from complainants or the vets being complained against, setting levels of disciplinary actions and giving timely notification to the vet who is the subject of complaint, etc.; (incomplete)
- (vii) Enhance communication with profession; (incomplete)

Long term

- (viii) Amend the Veterinary Surgeons Registration Ordinance, Cap. 529 to allow expansion of the Board membership and increase the ratio of vets to non-vets in the Board as well as to streamline the statutory inquiry procedures. (supported)

Main Concerns

Major issues of concerns regarding the Board's method of operation include –

- Lack of direction;
- Insufficient veterinary representation in VSB;
- Lengthy assessment process for complaints both through the Preliminary Investigation Committee (PIC) and the Inquiry Committee (IC);
- No performance pledges in terms of assessment and no time bars for responses to be given;
- Small number of ICs held each year;
- Insufficient expertise of PIC members;
- High rate of referral from PIC to IC;

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- Lack of expertise on retainer;
- Inconsistencies of disciplinary actions;
- Lengthy registration process;
- Undesirable ways of handling complaints against the Board; and
- Lack of communication with profession

Lack of direction

It has become glaringly obvious that the one thing the Board lacks the most is steer. Currently the Board is run by a senior executive officer (SEO) in AFCD, and yet this body's duties include the formulation of codes and rules for an entire profession with regards to registration, codes of conduct and disciplinary proceedings. It is also charged with coordinating a Comparative Study of Veterinary Qualifications and overseeing legislative amendments to the Ordinance (Cap. 529). Future roles include the management of Continuing Professional Development, the registration of specialists, integration of the veterinary nurse community, the role of non-vets in running vet clinics, the prosecution of quack vets etc.

Quite clearly it is both unfair and unreasonable to expect a SEO to conduct these activities without suitable steer from a higher grade, including grades that are intimately familiar with the profession. The post of VSB Secretary was previously that of a CEO but this was downgraded many years ago to SEO. The Board's administration requires much more direct veterinary input as the board serves as a conduit between the general public and the veterinary profession.

It is recommended that the VSB Secretariat be provided with suitable veterinary support to help provide appropriate administrative support and steer to the Board Secretary. It is also recommended that the Chairman should be elected from the members of the Board just as is done by the Medical and Dental Councils.

Insufficient veterinary representation in VSB

Currently the VSB consists of a Chairman, a Medical Practitioner or Pharmacist, two further lay persons and 6 veterinary surgeons. The ratio of vets to non-vets is therefore 3:2. In contrast the Medical Council (Cap. 161) is composed of 24 Medical Practitioners and 4 lay persons, a ratio of 6:1. The Dental Council has a ratio of 11:1. A change in the composition of the Board will require legislative changes. Furthermore there is no regulation requiring the Chairman to be a lay-person. It is worth noting the symbolic nature of the fact that the Chairman is not a veterinary surgeon in contrast to the Medical and Dental Councils and other Veterinary Councils around the world. We are not aware of any professional regulatory board in Hong Kong which is not chaired by a member of the profession itself. We do acknowledge that there is a growing trend to have professions regulated as a collaboration between Government, the public and the profession (so called Co-Regulation) but we believe the ratio of veterinarians is still too low.

It is recommended that the VSB membership be expanded and the ratio of vets to non-vets be increased to match that of the Medical Council through amendments to the Veterinary Surgeons Registration Ordinance, Cap. 529.

Lengthy processing times (PIC)

Once a complaint is received the matter is forwarded to the PIC. This currently consists of one veterinary member and one non-veterinary member of the Board. These two persons are expected to examine each and every complaint case and come up with a decision on whether the case should be dismissed or referred to the IC.

Over 50 complaints are received each year meaning that the two people on the PIC must complete the assessment within one week if they are not to fall behind. This is clearly an unworkable solution and the fact that there are so many outstanding cases shows that there must be a significant overhaul.

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*It is recommended that more PICs are formed from the Board members. Currently there are three members appointed under Section 3 (2) (b) which can sit on one PIC each. The other PIC member can be selected from the other 6 veterinary surgeons. As long as the PIC members do not sit on the IC for that particular case there is no conflict of interest. A performance pledge of **three months** for any complaint is recommended for a PIC stage enquiry.*

In addition, under S. 6 (a), the Board may create, and appoint members of, committees to advise the Board on the carrying out of the powers and functions of the Board. This provision could aid the Board in terms of dealing with complaint cases. The Hong Kong Veterinary Association has provided AFCD with a list of (26) private practitioners who would be willing to sit in an advisory capacity in this respect. If these advisers can be grouped on an ad hoc basis to form advisory committees for the PIC then much of the work can be done by these committees instead of the PIC which results in a bottleneck. If we simply take the 26 names provided by the HKVA as an example, we already have 13 potential advisory committees to help the PICs.

To make the list more transparent and fair, interested registered veterinary surgeons should be given an opportunity to serve on these committees provided that they meet the minimal criteria (e.g. 5 years in practice). Once the list is established 2 vets can be picked at random, declare no conflict of interest and then be asked to vet the PIC case before referring it back to the designated PIC for final deliberation. A lot of the work can be completed by these advisory committees and the bottleneck can be reduced significantly. If the advisory committee needs expert contribution then the case can be referred back to the PIC for further processing. Since only about 30% of cases that are referred to the IC need overseas expert help, this will not cause undue delay. The list can be refreshed every two years to allow more vets to contribute. If this proposal is viable then sufficient clerical staff will be required to help organise the large number of committees and advisory groups.

Another option is to employ full time or part time vet with adequate clinical experiences to advise PIC on the complaint cases or engage veterinary surgeons in local and overseas universities to provide expert opinions so that in future if an inquiry is required, these experts can make use of the facilities in their universities to conduct video conference if they are unable to attend the inquiry in person.

It is recommended that interested Registered Veterinary Surgeons who meet the minimal criteria may be afforded the opportunity to support the work of the VSB by acting in an advisory role as part of a two member committee to the PIC. In addition, more clerical staff will be required to organise the new arrangement.

Moreover, it is noted that once a case has been referred to the PIC the vet involved might be unaware of the complaint if no information is requested from him. This is not appropriate as the vet should be made aware immediately that a complaint has been lodged against him or her. There have been cases where a vet left Hong Kong only to find that he could not register in his destination country due to an outstanding case against him of which he was not even aware.

It is recommended that the vet who is the subject of the complaint be notified within 3 working days of a complaint so that he can begin preparing his case and so that he is aware of the complaint.

Lengthy processing times (IC)

Once a case has been referred to the IC from the PIC, the IC must meet to deliberate on the case. Currently the IC meets about 8 times per year and yet there are many outstanding cases. This means it would take years to clear the back log by which time another back log would have developed.

One problem is the difficulty in coordinating the meeting of all parties that need to be present for an IC hearing. These include the defendant, his legal counsel, the Chairman of the IC, the other two board members, the Board's legal Counsel, the Secretary, the complainant and the expert witness.

It is recommended that the IC must increase the frequency of its quorum meetings to at least twice the current rate to begin reducing the back log. It is also recommended that a date be set within 6 months

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of the referral where all parties must be present. Failure to be available will result in the case being heard in the absence of the absentee provided that the IC quorum is met. A 6 month performance pledge is recommended for an IC stage enquiry.

Insufficient expertise of PIC members

Since most complaints involve small animal practice it is important to have the appropriate expertise at the PIC level to allow for an expedient and appropriate assessment to be made.

It is recommended that the PIC member appointed under Section 3 (2) (d) have sufficient relevant experience in the subject area of the complaint (e.g. small animal practices) to be considered for assessment of the complaint.

The expertise of PIC members given the above recommendation might still not be sufficient to handle a case fairly. Currently there are a small number of overseas experts which are called upon to provide advice if needed. Considering the small number of registered specialists in Hong Kong (around 7 at present) it is important that we have a large number of overseas experts available to provide advice quickly until such a time as local specialists increase in number. It is also possible that the relatively high rate of referral to the IC from the PIC may be in part due to the lack of specialist consultation available to the PIC with the result that the PIC plays safe by referring more to the IC. For example, the Medical Council PIC and Dental Council PIC referred 1.2% and 2.6% of cases to their IC in 2009 respectively. The VSB PIC, on the other hand, referred 30% (so far as there are cases still with the PIC) of cases, a much higher figure.

It is recommended that an extensive list of specialist clinics and overseas veterinary schools is enlisted on retainer to provide quick expert advice to facilitate the PIC and IC deliberations.

Lengthy registration process

Figures provided show that the average processing time for registration was only 20 days in 2011 with the longest case taking 41 days. These figures are not considered excessive but there is room for improvement.

It is recommended that a review of the existing procedures/guidelines as well as performance pledge be conducted with a view to identifying areas for improvement and devising enhancement measures.

Undesirable ways of handling complaints against the Board

Currently a SEO maintains the Board almost single handed and garners advice from the Chairman and legal adviser as necessary. However, some of the responses viewed recently have been written in an inappropriate fashion and can easily be viewed as inflammatory. It has also emerged that some of the replies were drafted by legal counsel. This is highly irregular as legal counsel's role should be restricted to vetting the legality of the Board's decisions or replies

It is recommended that a CEO level civil servant post be created to oversee the Board administration with steer coming from the PVO and AD of the IQ Branch. In fact the Board originally had a CEO as Secretary. It is also recommended that more staff support be provided to allow the Secretary to delegate more mundane tasks.

Lack of communication

There has not been a regular channel or arrangement for the Board to meet and exchange views with the veterinary profession and the relevant associations such as the HKVA. It would be desirable for the Board to maintain communication and liaison with them to keep abreast the latest situation and development of the trade.

It is recommended that the Board would enhance communication with the veterinary profession.

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The major of the recommendations proposed above are mainly administrative measures that can be implemented relatively quickly in order to reduce the back log of cases both in the PIC and the IC. Some of these have already been implemented but much more can be done.

As regards those (e.g., expansion and change of the Board membership) requiring amendments to the Veterinary Surgeons Registration Ordinance, Cap. 529, the Administration has now made recommendations to Legco and it is our view that these should be passed as soon as possible.

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