

PRIVACY CODE

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College of Veterinarians of Ontario

www.cvo.org

Note: This document is not intended to provide legal advice but is only intended to provide general information about the Privacy Code. For legal advice in relation to specific circumstances, please consult with a lawyer.

Preamble

Under the *Veterinarians Act*, 1990, veterinarians are self-governed professionals. The *Veterinarians Act* specifies that it is the duty of the Minister of Agriculture, Food and Rural Affairs to ensure that veterinarians are regulated and co-ordinated in the public interest.

The College of Veterinarians of Ontario was established under the *Veterinarians Act* and has the following objects as set out in the Act:

1. The principal object of the College is to regulate the practice of veterinary medicine and to govern its members in accordance with the Act, the Regulation and the By-Laws in order that the public interest may be served and protected.
2. To establish, maintain and develop standards of knowledge and skill among its members.
3. To establish, maintain and develop standards of qualification and standards of practice for the practice of veterinary medicine.
4. To establish, maintain and develop standards of professional ethics among its members.
5. To promote public awareness of the role of the College.
6. To perform such other duties and exercise such other powers as are imposed or conferred on the College under any Act.

The legal powers and duties of the College are set out in the *Veterinarians Act*, Regulation 1093 and the By-Laws. The activities of the College are subject to a number of oversight mechanisms including both general and specific oversight by the Ontario Minister of Agriculture, Food and Rural Affairs and the Council of the College of Veterinarians of Ontario and specific oversight by the Health Professions Appeal and Review Board.

In the course of fulfilling its mandate, the College may collect, use and disclose personal information regarding applicants for registration, members, member's clients and persons employed, retained, elected or appointed for the purpose of the administration of the Legislation. The personal information being collected is critical to the College's ability to effectively regulate the profession in the public interest.

Individuals who are engaged in the administration of the Act (ie. those employed, retained or appointed by the College¹ as well as every member of College Council or a College committee), are required by section 38 of the *Veterinarians Act* (attached as Schedule 1 to this Privacy Code for more information on the obligation) to maintain confidentiality with respect to all information that comes to their knowledge in the course of their duties. There are some exceptions to this confidentiality obligation to permit information to be shared for required statutory purposes, police investigations etc. See both section 38 of the Act and section 56 of Regulation 1093 (attached as Schedule 1 to this Privacy Code) for more information on the exceptions. In addition, personal information handled by the College is subject to the provisions of this Privacy Code.

¹ this includes consultants, assessors, and other similar agents of the College

The College's collection, use and disclosure of personal information in the course of carrying out its regulatory activities is done for the purpose of regulating the profession in the public interest. These regulatory activities are not of a commercial character. Accordingly, the performance of the College of its statutory duties is not covered by the federal Personal Information Protection and Electronic Documents Act (PIPEDA).

The College has developed and adopted this Privacy Code on a voluntary basis to provide a mechanism through which the College can provide appropriate privacy rights to individuals involved in the College's activities while still enabling the College to meet its statutory mandate under the *Veterinarians Act*, Regulation 1093 and the By-Laws.

Definition of Terms

The following terms used in this Privacy Code have the meanings set out below:

Board: the Health Professions Appeal and Review Board

By-laws: the by-laws of the College passed under the authority of section 9 of the *Veterinarians Act*

Accreditation Committee: the Accreditation Committee of the College as required by the Act

Client: an individual, family, community or organization that is purported to have received professional services, products or information from a member of the College

College: the College of Veterinarians of Ontario

Discipline Committee: the Discipline Committee of the College as required by the Act

Complaints Committee: the Complaints Committee of the College as required by the Act

Inspection: Inspection of veterinary facilities to determine if the facility is being operated in accordance with a certificate of accreditation

Legislation: the *Veterinarians Act*, Regulation 1093, Minimum Standards for Veterinarian Facilities in Ontario and By-Laws

Member: an individual registered with the College (member)

Organization: an individual, a corporation, an association, a partnership, or a trade union

Personal information: information about an identifiable individual but does not include the name, title, or business address or telephone number of an individual

Privacy Committee: means the Executive Committee when it is constituted to deal with appeals regarding the manner in which personal information is managed by the College, including concerns regarding an individual's request for access to his or her personal information

Profession-specific Act: the *Veterinarians Act*.

Quality Assurance Committee: the Quality Assurance Committee of the College as required by the By-Laws

Registration Committee: the Registration Committee of the College as required by the Act

Regulations: the regulations made under the *Veterinarians Act*

Privacy Code Principles

1. Accountability
2. Identifying Purposes
3. Consent
4. Limiting Collection
5. Limiting Use, Disclosure or Retention
6. Accuracy
7. Safeguards
8. Openness
9. Individual Access
10. Challenging Compliance

Principle 1: Accountability

The Registrar is accountable for compliance with this Privacy Code. Concerns or questions regarding the manner in which personal information is being handled by the College should be directed to the Registrar, College of Veterinarians of Ontario at 519-824-5600 or 1-800-424-2856, email to inquiries@cvo.org or by mail to 2106 Gordon Street, Guelph, Ontario N1L 1G6.

The College will provide orientation and training to all employees and agents as well as all members of Council, committees or working groups regarding their obligations pursuant to section 38 of the *Veterinarians Act* and this Privacy Code.

A component of this orientation process will include an obligation for all College employees, Councillors and Committee members to sign an annual form indicating that they understand their confidentiality obligations.

The College's policies regarding privacy and information management are available on the College's website at www.cvo.org and on request by phone at 519-824-5600 or 1-800-424-2856 or by mail at 2106 Gordon Street, Guelph, Ontario N1L 1G6.

Principle 2: Identifying Purposes

The College collects uses and discloses personal information to administer and enforce the Legislation.

Information about Members

The College collects and uses personal information regarding members for the following purposes:

- to assess whether a member continues to meet the standards of qualification for a licence;
- to investigate complaints regarding the conduct or actions of a member of the College;
- to investigate reports filed about members of the College under the Act;
- to investigate whether a member has committed an act of professional misconduct or is incompetent, (e.g. through a Registrar's inquiry) and to resolve such matters including through the imposition of specified continuing education and remediation programs and through undertakings;
- to inquire whether a member is incapacitated;
- to inspect facilities and the records kept by members in connection with the practice of veterinary medicine;
- to negotiate and implement informal resolutions, including acknowledgements and undertakings, specified continuing education programs and remediation programs;

- to implement the orders applying to members that result from a hearing held by a College statutory committee;
- to hold a hearing of allegations of a member's professional misconduct or incompetence, or of allegations that a member is incapacitated;
- to carry out the quality assurance program of the College, including an assessment of the records and practice of its members;
- to assess whether a former member's licence should be reinstated;
- to develop and provide statistical information for human resource planning and demographic and research studies for regulatory purposes including providing that information to the Ministry of Agriculture, Food and Rural Affairs and other appropriate agencies;
- to provide information about members to the public for regulatory purposes on the public register, which is accessible through the College's website and which includes information about discipline hearings; and
- to administer and/or enforce the Legislation.

The College may collect personal information regarding a member from the member, employers and colleagues of the member, clients of the member and other persons, for the purposes set out above. Personal information regarding members is collected by the College from time to time and at regular intervals.

The College discloses personal information regarding its members only as permitted by section 38 of the *Veterinarians Act* or as required by law. For example, the College is required under the Act to maintain a register containing information about its members.² Such information includes, but is not restricted to: members' qualifications and practice information; court findings of professional negligence of malpractice made against the member unless the finding is reversed on appeal; referrals to the College's Discipline Committee until the matter has finally been resolved; and the result and a synopsis of the decisions for every finding made against a member as a result of a disciplinary proceeding. The Act requires the College to maintain a register of members and a directory of every member who is the holder of a certificate of accreditation. Any person has the right, during normal business hours, to inspect the register and directory maintained by the Registrar. These may be kept in an electronic or other medium that provides a visual display of recorded information and are accessible through the College website.

Information about Employers, Colleagues and Clients

The College collects and uses personal information regarding the employers, colleagues and clients of members of the College for the following purposes:

- to investigate complaints regarding the conduct or actions of a member of the College;
- to investigate whether a member has committed an act of professional misconduct or is incompetent;
- to investigate reports filed about members of the College under the Code;
- to inquire whether a member is incapacitated;

² Section 19 of the *Veterinarians Act*, Section 52 of Regulation 1093 and Section 41. of the By-Laws of the College provide more detail on what information is collected by the College for the purpose of the public register.

- to hold a hearing of allegations of a member's professional misconduct or incompetence, or of allegations that a member is incapacitated;
- to inspect facilities and the records kept by members in connection with the practice of veterinary medicine;
- to negotiate and implement informal resolutions, including acknowledgements and undertakings or specified continuing education and remediation programs;
- to implement the orders applying to members that result from a hearing held by a College statutory committee;
- to carry out the quality assurance program of the College, including an assessment of the records and practice of its members;
- to assess whether a member continues to meet the standards of qualification for a licence;
- to assess whether a former member's licence should be reinstated;
- to provide information about members to the public for regulatory purposes such as public register information and information about discipline hearings; and
- to administer or enforce the Legislation.

The College may collect personal information regarding an employer, colleague and client of a member of the College from the employer, the colleague, the client, the member or other persons, for the purposes set out above.

The College discloses personal information regarding the employers, colleagues and clients of members of the College only as permitted by section 38 of the *Veterinarians Act* or as required by law. For example, hearings of the Discipline Committee are required, subject to certain exceptions, to be open to the public. Evidence at a hearing of the Discipline Committee may include personal information regarding the member of the College who is the subject of the allegation of professional misconduct or incompetence, as well as personal information regarding the member's clients related to the allegations of professional misconduct or incompetence, and the personal information of other witnesses.

Another example of disclosure of personal information about clients of members of the College relates to complaints regarding the conduct or actions of members of the College. Where a complainant or a member does not agree with a decision of the Complaints Committee, subject to certain exceptions, either person can request a review by the Board. The Act requires that the College disclose to the Board a record of the investigation, and the documents and things upon which the decision was based. This disclosure of personal information about a client of a member to the Board is required under the Act.

Information about Applicants for Registration and Potential Members

The College collects and uses personal information regarding applicants and potential members to assess whether an applicant or potential member meets, and continues to meet, the standards of qualification to be issued a licence and to administer or enforce the Legislation. The College discloses personal information regarding applicants, potential members and references about them only as permitted by Section 38 of the *Veterinarians Act* or as required by law. For example, the Act provides a procedure for an applicant who does not agree with a decision of the Registration Committee to request a review or a hearing by the Board. The Act requires that the College disclose to the Board a copy of the order and reasons of the Registration Committee and the documents and things upon which the decision was based. This disclosure of personal information to the Board is required under the *Veterinarians Act*.

Information Related to Unauthorized Practice and Holding Out

The College collects and uses personal information regarding individuals who may be either holding themselves out as authorized to practice as veterinarians. This information may be collected from these individuals, their clients and their employers, colleagues or other witnesses to investigate whether such individuals have contravened or are contravening the Legislation, and to administer or enforce the Legislation. The College discloses personal information regarding such individuals only as permitted by section 38 of the *Veterinarians Act* or as required by law.

Information Related to Administering the Legislation

The College collects and uses personal information regarding individuals who are retained, elected or appointed for the purpose of the administration of the *Veterinarians Act* including the following:

- to review prospective candidates and retain or appoint persons for the purpose of the administration of the Act;
- to maintain records to ensure accurate remuneration and payment of expenses, and all documentation required by law and by the various levels of government in accordance with sound accounting practices;
- to communicate with the person (e.g., home contact information);
- to maintain accurate and fair accounts of any disputes, possible conflicts of interest or misconduct involving a person retained or appointed for the purpose of the administration of the Act or a member of the Council or committee of the College; and
- for the purpose of making payments and providing benefits.

The College discloses personal information regarding the individuals referred to above only as permitted by section 38 of the *Veterinarians Act* or as required by law.

Specifying the Identified Purpose

Where practicable, the College will make a reasonable effort to specify the identified purposes to the individual from whom the personal information is collected, either at the time of collection or after collection but before use, except where to do so would defeat the purpose of the Legislation or be inconsistent with the Legislation.

The College will state the identified purposes in such a manner that an individual can reasonably understand how the information will be used or disclosed.

Where personal information is collected for one purpose, the College has the right to use and disclose the information for another regulatory purpose where it is in the public interest to do so.

Principle 3: Consent

The College collects personal information for purposes related to its objects (see Preamble for the College's objects) including for the purpose of the administration and enforcement of the Legislation and for other related regulatory purposes. In carrying out its objects, the College has a duty to serve and protect the public interest.

Where practicable, the College will make a reasonable effort to specify the identified purposes to the individual from whom the personal information is collected as described in Principle 2. However, obtaining the consent of the individuals would, in many cases, defeat the purposes of the College's collecting, using and disclosing the personal information. Personal information will only be collected, used and disclosed without the knowledge and consent of the individual for the purpose of the administration or enforcement of the Legislation and in accordance with any applicable provisions of the Legislation.

Principle 4: Limiting Collection

The College collects only the personal information that is required for the purposes identified in Principle 2 of this Privacy Code. The College collects personal information using procedures that are fair and lawful.

Personal information regarding clients must be collected as part of the College's regulatory function. This information is typically obtained by the College as part of an investigation or during the collection of information for the College's quality assurance program. The focus of these inquiries is the conduct, competence or capacity of the member, the continuing competence and improvement of members and the protection of the public. The College only collects personal information regarding clients to satisfy this regulatory purpose.

Principle 5: Limiting Use, Disclosure or Retention

The College uses personal information only for the purposes identified in Principle 2 and in accordance with the provisions of the Legislation. Personal information is only disclosed in accordance with the provisions of section 38 of the *Veterinarians Act* or as required by law.

The Act and Regulation 1093 clearly designate the information regarding members that is publicly available. The *Veterinarians Act*, is available from the website of the government of Ontario at www.gov.on.ca and the by-laws can be accessed from the College website at www.cvo.org or by contacting the College at 1-800-424-2856 or 519-824-5600.

Under the *Veterinarians Act*, discipline hearings conducted by the Discipline Committee are open to the public. Evidence at a discipline hearing may include personal information regarding the member and the member's clients, employers and colleagues or other witnesses related to allegations of professional misconduct or incompetence. Under the *Veterinarians Act*, the panel of the Discipline Committee has the discretion to close a hearing under certain prescribed circumstances and/or restrict the publication of personal information where appropriate. Under the *Veterinarians Act*, the College is required to publish certain information regarding discipline hearings conducted by the Discipline Committee.

Under the Act, reviews of decisions of the Complaints, Registration and Accreditation Committees by the Board are open to the public. Similarly, the Board has the discretion to restrict the disclosure of personal information in its review process. The objective of these regulatory processes is always the protection of the public.

The College has a record retention policy in place. Specific information regarding the record retention policy can be obtained by contacting the Registrar at the College.

The College also conducts regular audits to ensure that personal information that is no longer required to be kept is destroyed, erased or made anonymous.

Principle 6: Accuracy

It is in the best interest of the public that the College collect, use and disclose only accurate personal information in regulating the profession. The College therefore endeavours to ensure that the information it collects, uses and discloses is accurate.

Members are required to provide the College with current name, contact and employment information and to advise the College of changes within thirty (30) days of any change. Member information is updated when new information is provided to the College. The College also requests and updates member information annually when members renew their registration with the College.

Principle 7: Safeguards

The College ensures that personal information it holds is secure.

The College ensures that personal information is stored in electronic and physical files that are secure. Security measures are in place to safeguard this information which include restricting access to personal information to authorized personnel, ensuring that physical files are under lock and key and ensuring that electronic files are password protected. The College reviews its security measures periodically to ensure that all personal information is secure.

Employees of the College receive an annual orientation and ongoing training as required regarding the information safeguards required for personal information and their importance.

The College ensures that personal information that is no longer required to be retained is disposed of in a confidential and secure fashion (i.e. shredding).

Principle 8: Openness

The College's Privacy Code is available to the public and its members via the College's website at www.cvo.org. It is also available by contacting the College at 519-824-5600 or 1-800-424-2856 or by e-mail at inquiries@cvo.org or by sending a letter to the College at 2106 Gordon Street, Guelph, Ontario N1L 1G6.

Inquiries concerning the College's policies and practices for collecting, using and disclosing personal information may be directed to the Registrar, College of Veterinarians of Ontario at 519-824-5600 or 1-800-424-2856, by e-mail at inquiries@cvo.org or by sending a letter to the College at 2106 Gordon Street, Guelph, Ontario N1L 1G6.

Principle 9: Individual Access

Where the College holds personal information about an individual, upon written request the College shall allow access to the information to that individual, unless providing access could reasonably be expected to interfere with the administration or enforcement of the Legislation or it is impracticable or impossible for the College to retrieve the information.

Examples of situations where access may be denied include:

- Information contains references to another individual(s) that cannot be severed;
- Disclosure may result in significant risk of harm to the requestor or a third party;
- Information was collected or created in the course of an inspection, investigation, inquiry, assessment or similar procedure;

- Disclosure may defeat the purposes for which the information was collected;
- Information cannot be disclosed for legal, security or commercial proprietary reasons;
- Information is subject to solicitor-client or other privilege;
- Information was generated in the course of a resolution process; and
- The request is frivolous, vexatious, made in bad faith or otherwise an abuse of process.

In cases where the personal information forms part of a record created by another organization (or person), the College may refer the individual to the organization (or person) that created the record (unless it is inappropriate or impossible to do so) so that the individual may obtain access to the personal information from the original source rather than the College.

While the College's response will typically be provided at no cost or minimal cost to the individual, depending on the nature of the request and the amount of information involved, the College reserves the right to impose a cost recovery fee. In these circumstances, the College will inform the individual of the cost to provide the response and proceed to respond to the request upon payment by the individual of the fee.

The College will make every effort to respond to the request within thirty days and to assist the individual in understanding the information.

Individuals should send their written request for access, with contact information and sufficient information about themselves to identify them, to the Registrar, College of Veterinarians of Ontario at 519-824-5600 or 1-800-424-2856, email to inquiries@cvo.org or by mail to 2106 Gordon Street, Guelph, Ontario N1L 1G6.

In the event the College refuses to provide access to all of the personal information it holds, the College will provide reasons for denying access except in circumstances where the provisions of such reasons may compromise the ability of the College to administer or enforce the Legislation.

Upon receipt of the College's response to his or her request, the individual may then choose to register a concern with the Registrar.

Challenging accuracy and completeness of personal information

An individual has the right to request a correction of what, in his or her view, is erroneous information. Where the information forms part of a record created by another organization (or person), the College may refer the individual to the organization (or person) that created the record (unless it is inappropriate or impossible to do so) so that the individual may challenge the accuracy or completeness of the information.

Where the College receives notification from the originator of a record that an individual has been able to successfully demonstrate that the personal information of a factual nature (not, for example, the expression of an opinion) was inaccurate or incomplete and changes to the information were required, if the College has a copy of this information the College will amend the information (i.e. correct, or add information). In some cases, a correction may be inappropriate (e.g. where the fact that a person made or recorded such a statement is the primary focus of the record rather than whether the statement is, in fact, accurate).

If an individual who requests a correction to his or her record cannot be referred to the organization that created it, the College, upon the individual's successful demonstration that personal information of a factual nature was inaccurate or incomplete, will amend the information through correction or addition. In addition, where appropriate, the College will notify any third parties to whom the College has disclosed the erroneous information.

Where there is a dispute between the individual and the College as to the accuracy or completeness of the information, then the College will document the details of the disagreement and, where appropriate, will advise any third party who received the contested information from the College of the unresolved disagreement.

Principle 10: Challenging Compliance

Concerns or questions regarding the College's compliance with this Privacy Code should be directed to the Registrar, College of Veterinarians of Ontario at 519-824-5600 or 1-800-424-2856, email at inquiries@cvo.org or by mail to 2106 Gordon Street, Guelph, Ontario N1L 1G6.

Upon receipt of a concern of this nature the Registrar will initiate a review of the concern that includes:

- acknowledging the concern;
- reviewing the expressed concern in light of this Privacy Code, relevant statutes, other relevant College policies or procedures, and any extenuating circumstances that may apply;
- providing a written decision and reasons to the individual who identified the concern; and
- taking appropriate measures if/when the concern is found to be justified.

If the Registrar cannot satisfactorily resolve a concern, the next stage in the College's formal challenging compliance procedure permits a privacy concern to be made to and reviewed by the College's Privacy Committee. Upon receipt of a concern that has not been satisfactorily resolved by the Registrar the College Privacy Committee will initiate a review of the concern that includes:

- acknowledging the concern;
- reviewing the expressed concern in light of this Privacy Code, relevant statutes, other relevant College policies or procedures, any extenuating circumstances that may apply and the previous review of the matter by the Registrar;
- providing a written decision and reasons to the complainant; and
- taking appropriate measures where the concern is found to be justified.

Please note that there is a different process for handling complaints about the conduct or actions of a member of the College. Please contact the Manager, Complaints and Discipline if you wish to file a complaint about the conduct or actions of a member of the College. You may contact rrobinson@cvo.org or by phone at 519-824-5600 or 1-800-424-2856, ext. 2227.

Schedule 1

SECTION 38 OF THE VETERINARIANS ACT, 1990, as amended (as of 2010)

Confidentiality

38. (1) Every person engaged in the administration of this Act, including any person making an investigation under section 36, shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties, employment, examination, review or investigation and shall not communicate any such matters to any other person except,

(a) as may be permitted by the regulations or required in connection with the administration of this Act and the regulations and by-laws, or any proceeding under this Act or the regulations;

(a.1) to a body that governs a profession either inside or outside Ontario;

(b) to his or her counsel; or

(c) with the consent of the person to whom the information relates.

Testimony in civil action

(2) No person to whom subsection (1) applies shall be required to give testimony or to produce any document or thing in any action or proceeding with regard to information obtained in the course of his or her duties, employment, examination, review or investigation except in a proceeding under this Act or the regulations.

SECTION 56 OF ONTARIO REGULATION 1093, as amended (as of 2011)

56. Information in respect of matters referred to in subsection 38 (1) of the Act may be disclosed,

(a) upon the approval of the Executive Committee, to a law enforcement agency for an investigation with a view to law enforcement;

(a.1) to a body that regulates a profession, whether inside or outside of Ontario, or to an umbrella organization for such bodies, where the College believes that such disclosure is in the public interest or that such disclosure will promote reciprocal disclosure of regulatory information; or

(b) for publication in statistical form as long as individual confidentiality is preserved.