



AGENDA ITEM 6.7

TOPIC: Conflict of Interest

Overview

The College is proposing the development of supplementary professional misconduct Regulation language related to conflict of interest as permitted by Section 91 (1) 35 and 36 of the *Veterinary Professionals Act, 2024*.

Relevant Sections

An overview of the relevant sections of legislation, regulation, by-law, and policy related to conflict of interest (both current and future) has been attached to this cover sheet as Appendix “A”.

What is a Conflict of Interest?

A conflict of interest arises when a member’s duties and responsibilities may be influenced by some other interest that the member has, usually a personal or financial interest. The test for a conflict of interest is not only whether the member believes that such an interest may affect their professional judgement but also the perception of a reasonable person aware of the circumstances as to whether the conflict may influence the judgement of the member.

Failing to properly avoid or manage a conflict of interest is an act of professional misconduct.

Why Does the College Oversee Conflicts of Interest?

The public expects that a member will use their knowledge, skills, and judgement in the best interest of any animal(s) in their care and that their choices will be based on objective professional judgement and not consideration of personal or financial interests. Conflicts of interest in the practice of veterinary medicine do occur, and the College seeks to provide clear expectations for members on how to identify and manage these occasions.



History of College Work Related to Conflict of Interest

Current Framework

Regulation 1093 made under the *Veterinarians Act* outlines conflicts of interest in two ways. First, having a conflict of interest is listed as an act of professional misconduct. Second, Sections 42-44 outline what does and does not constitute a conflict of interest in practice. The College also has both a *Professional Practice Standard* and *Guide to the Professional Practice Standard* that speak directly to conflicts of interest.

The current framework for conflicts of interest is very prescriptive. While helpful in illustrating the different ways and occasions in which a conflict of interest may occur in practice, the current framework's focus also creates an imbalance in the level of oversight and/or guidance available between situations that are spoken directly to in the Regulation versus those that are not.

The current framework for conflicts of interest – particularly the rules around employment arrangements outlined in Section 43 – have also been used to determine who can and cannot employ a veterinarian (and therefore hold a certificate of accreditation for an accredited facility). Interpretation of these rules has shifted over the years, including updates as recent as 2019, and have morphed away from their original intention of preventing conflicts of interest and undue influence. Instead, these rules have primarily served as the basis for determining who can own a veterinary facility and have crossed over into areas that should instead be directly addressed through the rules and regulations surrounding accreditation.

Legislative Reform – Professional Misconduct

The College's 2018 Concept Paper entitled "Achieving a Modern Approach to the Regulation of Veterinary Medicine in Ontario" contained several recommendations related to enhancing the College's ability to efficiently and effectively manage concerns related to professional misconduct. These requests were made after several rounds of consideration and conversation amongst both the College's Working Groups and College Council, including extensive background research and two rounds of public consultation. While not designed to gather information on specific acts of professional misconduct, the information gathered during this process did result in several flags for the College related to conflicts of interest.



What Will Change?

Conflict of interest will continue to be listed as an act of professional misconduct. Additional regulatory language related to conflicts of interest will also continue to be provided. Direct or implied ties to the College's accreditation program and/or facility ownership will be removed. Any future work related to these topics will be accomplished through the College's ongoing work on proposed accreditation Regulation language including considerations around who is permitted to be holders of Certificates of Accreditation and how they are expected to interact with facility directors.

Concept

A draft concept has been developed to support the College's work in this area and to outline the specific supplementary components that are required in Regulation to assist members with handling conflicts of interest as they arise. (attached to this cover sheet as Appendix "B"). In particular, the concept speaks to the proposed inclusion of:

1. Language focused on Behaviours not Work Locations

The concept proposes that Regulation language be developed that that Regulation language that outlines the types of behaviours that would qualify as a conflict of interest. In identifying these behaviours, the College is proposing that the language focus more on the specific activities that qualify as real or potential conflicts of interest instead of the work locations and/or arrangements where they may occur.

2. Language focused on Professional Judgement

The concept proposes that Regulation language be developed that highlights and underscores the fundamental test associated with conflicts of interest – that a member must determine whether an interest may affect their professional judgement or may create a reasonable perception that their professional judgement has been influenced.

Discussion

The draft concept related to conflict of interest is now being presented to Transition Council for its review and discussion related to next steps.

Options

Following discussion, Transition Council may elect to:

1. Direct that the draft concept be approved for public consultation as presented or amended;

COVER SHEET
Transition Council Meeting
September 23-24, 2024



2. Direct that the draft concept be returned to College Staff for further review and development; or
3. Other.

Attachments

1. Appendix A – Relevant Sections of Legislation, Regulation, By-Law and Policy – Conflict of Interest
2. Appendix B – Draft Concept – Conflict of Interest

Conflict of Interest

Relevant Sections of Legislation, Regulation, By-Law, and Policy

Current Framework Under the *Veterinarians Act*

7 (1) Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations with respect to the

12. Prohibiting the practice of veterinary medicine where there is a conflict of interest and defining conflict of interest for the purpose.

Current Framework Under Regulation 1093

42. (1) In this Part,

“related person” means a person connected with a member by blood relationship, marriage or adoption, and,

(a) persons are connected by blood relationship if one is the child or other descendent of the other or one is the brother or sister of the other,

(b) persons are connected by marriage if one is married to the other or to a person who is connected by blood relationship to the other, and

(c) persons are connected by adoption if one has been adopted, either legally or in fact, as the child of the other or as the child of a person who is so connected by blood relationship, except as a brother or sister, to the other. R.R.O. 1990, Reg. 1093, s. 42 (1).

(2) A member has a conflict of interest where the member, or a related person, or an employee or employer of the member, directly or indirectly,

(a) enters into any agreement, including a lease of premises, under which any amount payable by or to a member or a related person is related to the amount of fees charged by the member or the net revenue from the member’s practice of veterinary medicine or any other measure of financial performance respecting the member’s practice of veterinary medicine; or

(b) receives, makes or confers a fee, credit or other benefit by reason of the referral or transfer of an animal or a specimen from or to any other person. R.R.O. 1990, Reg. 1093, s. 42 (2); O. Reg. 233/15, s. 28 (1).

(3) Clause (2) (a) does not prevent a member,

(a) from entering into a partnership, association or employment agreement with another member under which the drawings, interest or remuneration of the partners, associates or employees, as the case may be, is related to the amount of fees charged by them, the net revenue from their practice of veterinary medicine or any other measure of financial performance respecting their practice of veterinary medicine; or

(b) from entering into an agreement with another member to form a professional corporation, under which the drawings, interest or remuneration of the members is related to the amount of

fees charged by them, the net revenue from their practice of veterinary medicine or any other measure of financial performance respecting their practice of veterinary medicine. O. Reg. 24/02, s. 3; O. Reg. 161/04, s. 20 (1); O. Reg. 233/15, s. 28 (2, 3).

(4) Clause (2) (b) does not prevent a member from referring or transferring an animal or a specimen to another veterinarian who is a partner, associate, employer or employee of the member if,

(a) the animal is seen or the specimen is examined in the same facility by both veterinarians; or

(b) the member provides a written explanation to the client of the member's relationship to the other veterinarian, if the animal is seen or the specimen is examined in a different facility. O. Reg. 161/04, s. 20 (2).

(5) Clause (2) (b) does not prevent a member from referring or transferring an animal or a specimen to a corporation or other business entity from which the member receives a benefit, by reason only that the member or a related person has an interest in the corporation or other business entity, if,

(a) the member provides a written explanation to the client of the member's or related person's interest in the corporation or other business entity;

(b) the member provides written notice to the client that, if the client chooses another service provider, the client's choice will not affect the client's ability to obtain services from the member unless the choice would result in the care provided to the animal being unco-ordinated;

(c) in the case of laboratory testing or radiological or other technical procedures, the member provides a written explanation to the client that the member is professionally responsible for the quality of the testing or technical procedures performed for the animal; and

(d) the member provides the College, upon request, documents demonstrating that the member has complied with clauses (a), (b) and (c). O. Reg. 161/04, s. 20 (2).

43. (1) In this section,

"employer" includes a principal. R.R.O. 1990, Reg. 1093, s. 43 (1); O. Reg. 233/15, s. 29 (1).

(2) It is a conflict of interest for a member who is employed by a person other than another member or a professional corporation, or who has a contract to provide veterinary services with such a person, to perform veterinary services in the course of his or her employment or pursuant to his or her contract for a client other than the employer or the contractor. O. Reg. 233/15, s. 29 (2).

(3) Despite subsection (2), a member who is employed by any of the following persons or entities, or who has a contract to provide services with any of the following persons or entities, does not have a conflict of interest if, in the course of his or her employment or pursuant to his or her contract, he or she performs veterinary services for a client other than the employer or the contractor:

1. The Crown in right of Canada or the Crown in right of Ontario or an agency of the Crown.

2. Any university, college of applied arts and technology or post-secondary institution in Ontario, the enrolments of which are counted for purposes of calculating annual operating grants received from the Government of Ontario.
3. Any post-secondary institution that is affiliated with a university referred to in paragraph 2, the enrolments of which are not counted for purposes of calculating annual operating grants received from the Government of Ontario.
4. A Royal Military College.
5. A pound operated under the *Animals for Research Act* or an entity prescribed under subsection 6 (1) of Ontario Regulation 447/19 (Ministerial Prescriptions) made under the *Provincial Animal Welfare Services Act, 2019*.
6. The estate trustee of a deceased member or an attorney pursuant to a continuing power of attorney or a Guardian of Property of a mentally incapacitated member, for a reasonable period of time after the member's death or the commencement of the member's incapacity to settle matters.
7. A zoo or a wildlife rehabilitation centre. O. Reg. 233/15, s. 29 (2); O. Reg. 260/22, s. 6.

(4) Despite subsection (2), a member who is employed by, or has a contract to provide veterinary services with, a municipal corporation does not have a conflict of interest with respect to any spay or neuter procedures, including the pre-operative, intra-operative and post-operative management services usually associated with such procedures, that the member performs in the course of his or her employment or pursuant to his or her contract, for a client other than the municipal corporation. O. Reg. 233/15, s. 29 (2).

(4.1) Despite subsection (2), a member who is employed by, or has a contract to provide veterinary services with, an individual, partnership or corporation that sells food or drug products for use in food-producing animals, does not have a conflict of interest with respect to veterinary services that the member provides in the course of his or her employment or pursuant to his or her contract, if the following conditions are met:

1. The veterinary services must relate to the food or drug products sold by the employer or contractor.
2. The veterinary services must be provided to an established customer of the employer or contractor at the customer's farm or at a similar establishment.
3. The member must take all reasonable steps to notify the veterinarian who would normally attend the client's animals of the member's visit and the reasons for it so that that veterinarian may discuss the matter with the client and, if desirable, arrange to meet the member before or at the visit. O. Reg. 233/15, s. 29 (2).

(4.2) Despite subsection (2), a member who is employed by, or has a contract to provide veterinary services with, Eastgen Incorporated does not have a conflict of interest with respect to the following veterinary services that the member provides, in the course of his or her

employment or pursuant to his or her contract, to animals that are not owned by Eastgen Incorporated:

1. In the case of a member who has been continuously employed by, or under a contract for veterinary services with, Eastgen Incorporated since September 14, 1998, services in respect of fertility, including ova and embryo transfer.

2. In the case of a member who was employed by, or entered into a contract for veterinary services with, Eastgen Incorporated after September 14, 1998, ova and embryo transfer services. O. Reg. 233/15, s. 29 (2).

(5) Despite subsection (2), it is not a conflict of interest for a member to provide veterinarian services under the following circumstances:

1. The member is employed by, or has a contract to provide services to, an entity that is an individual, a partnership or a corporation.

2. The entity does not provide services or products that are exclusive to veterinary medicine.

3. In the course of the member's employment or provision of services, the member performs veterinary services related only to the entity's products or services, for an established customer of the entity and at the customer's farm or similar establishment.

4. In the course of the member's employment or provision of services, the member takes all reasonable steps to notify the normally attending veterinarian of the member's proposed visit and the reasons for it so that the normally attending veterinarian can discuss the matter with his or her client, and, if desirable, arrange to meet the member before or at the visit. O. Reg. 431/00, s. 10 (3); O. Reg. 233/15, s. 29 (3, 4).

(6) Despite subsection (2), it is not a conflict of interest for a member to provide veterinary services under the following circumstances:

1. The member is employed by, or has a contract to provide services to, an entity that is an individual, a partnership or a corporation.

2. The entity is engaged in manufacturing or selling feed for poultry or is engaged in breeding, hatching, growing, processing or feeding poultry.

3. The entity does not offer veterinary services as an inducement to others to buy its products or to sell products to it. O. Reg. 431/00, s. 10 (3); O. Reg. 233/15, s. 29 (5).

(7) Despite anything in subsections (3) to (6), a member who is employed by a person or entity described in any of those subsections, or who has a contract to provide veterinary services with such a person, has a conflict of interest in respect of any services that the member provides where the employer or contractor exercises control or influences any of the clinical or professional aspects of the provision of services. O. Reg. 233/15, s. 29 (6).

(8) For greater certainty, subsection (7) applies even where the member is providing services to an animal that is owned by, or in the custody of, the person who employs the member or with

whom he or she has a contract for the provision of veterinary services. O. Reg. 233/15, s. 29 (6).

44. (1) A member has a conflict of interest if the member or a partner or associate of the member,

- (a) inspects or assesses an animal on behalf of both the seller and the buyer of the animal; or
- (b) being regularly engaged by the seller or buyer of an animal, inspects or assesses an animal on behalf of the other party to a sale. R.R.O. 1990, Reg. 1093, s. 44 (1).

(2) Despite subsection (1), a member, or a partner or associate of the member, may inspect or assess an animal on behalf of both the buyer and seller of the animal or, where one or more of them are regularly engaged by the seller or buyer of an animal, any of them may inspect or assess an animal on behalf of the other party to a sale if, before accepting engagement by the second party, he or she,

- (a) informs both parties of the conflict of interest and of the circumstances giving rise to it;
- (b) informs both parties that no information received by the member, or a partner or associate of the member, in connection with the transaction can be treated as confidential so far as the other party is concerned; and
- (c) after informing the parties under clauses (a) and (b), obtains the consent of both parties to inspect or assess the animal on behalf of both of them, which shall be in writing unless it is impracticable to obtain the consent in written form. R.R.O. 1990, Reg. 1093, s. 44 (2).

Current Framework Under College Policy

The College currently has two policy documents related to conflicts of interest. They are:

[*Professional Practice Standard: Conflicts of Interest in the Practice of Veterinary Medicine*](#)

[*Guide to the Professional Practice Standard: Conflicts of Interest in the Practice of Veterinary Medicine*](#)

Future Framework under the *Veterinary Professionals Act, 2024*

93 (1) Subject to the approval of the Lieutenant Governor in Council, the Council may make regulations,

30. permitting, limiting, prohibiting and governing the practice of veterinary medicine where there is a conflict of interest and defining conflict of interest for those purposes;

36. designating acts of professional misconduct that must be reported by members and rules respecting the making of such reports;

Conflict of Interest Concept Chart

Section	Main Objectives	Primary Concepts	Additional Information	Transition Comments	Intended Outcomes
This column outlines the specific section of regulation.	This column provides an overview of the College's main objectives for the section of regulation.	This column provides a more in-depth description of the objectives sought and the associated reasoning.	This column provides any additional specific information required to ensure clarity.	This column highlights any relevant transition matters requiring consideration.	This column outlines the College's intended outcomes for the specific section.
Conflict of Interest	<ul style="list-style-type: none"> • Clear expectations for both classes of members. • Focus on behaviours instead of work locations. • Highlight importance of professional judgement. 	<p>General</p> <p>The College is proposing the development of supplementary professional misconduct Regulation language related to conflict of interest as permitted by Section 91 (1) 35 and 36 of the <i>Veterinary Professionals Act, 2024</i>.</p> <p>Purpose</p> <p>The public expects that a member will use their knowledge, skills, and judgement in the best interest of any animal(s) in their care and that their choices will be based on objective professional judgement and not considerations of personal or financial interests. Conflicts of interest in the practice of veterinary medicine do occur, and the College seeks to provide clear expectations for members on how to identify and manage these occasions.</p>	<p>The requirement for a member to not be in a conflict of interest is listed directly within the acts of professional misconduct. Given the complexity of this topic, the College is proposing an additional section of professional misconduct that speaks more directly to what does and does not qualify as a conflict of interest to assist members with determining how to properly manage these concerns.</p>	<p>The College's current conflict of interest language under the <i>Veterinarians Act</i> is heavily focused on the different work locations and/or arrangements where a conflict of interest may or may not occur. While it is important for members to consider their employment and/or contractual relationships when determining whether they are in a conflict of interest this is only one component of a member's overarching responsibility to ensure that there are not any undue influences on their professional judgement.</p> <p>In proposing a shift away from a work location to behaviour-based model for conflict of interest, the College recognizes that previous guidance related</p>	<p>Clear and transparent expectations that assist members with handling conflicts of interest as they arise.</p>

Section	Main Objectives	Primary Concepts	Additional Information	Transition Comments	Intended Outcomes
		<p>Focus on Behaviours Not Work Locations</p> <p>The College is proposing that Regulation language be developed that outlines the types of behaviours that would qualify as a conflict of interest. In identifying these behaviours, the College is proposing that the language focus more on the specific activities that qualify as real or potential conflicts of interest instead of the work locations and/or arrangements where they may occur.</p> <p>Highlighting the Importance of Professional Judgement</p> <p>The College is proposing that Regulation language be developed that highlights and underscores the fundamental test associated with conflicts of interest – that a member must determine whether an interest may affect their professional judgement or may create a reasonable perception that their professional judgement has been influenced.</p>		<p>to who can or cannot own an accredited facility will also require updating based on this new model. This will be accomplished through the College’s ongoing work related to accreditation, holders of certificates of accreditation, and facility directors and will be outlined in more detail within that topic’s specific concept.</p>	