



VETERINARY SURGEONS BOARD OF SOUTH AUSTRALIA

VETERINARY SURGEONS BOARD OF SOUTH AUSTRALIA 2021 E-BULLETIN #8

VSBSA e-Bulletin – Veterinary Surgeons

Key Points:

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2. Role of the VSBSA
3. New Continuing Professional Development (CPD) Guidelines
4. Legislative Review
5. Recent Decisions
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1. Registration Renewals are due by 31 December 2020

It is registration renewal time for veterinary surgeons who are registered in South Australia so please remember to submit your 2020 Annual Return and pay the 2021 annual practice fee as soon as possible and by no later than 31 December 2020.

Here are some important points to remember:

- Registration renewal is a two-step process (submission of a 2020 Annual Return and payment of the 2021 Annual Practice Fee). Both steps can be easily completed [online](#).
- Before you go to the website to renew your registration please review your records of CPD activity for the Annual Return period (1 January 2020 to 31 December 2020). You will need to submit details of this activity online.
- If you do not plan to remain registered in South Australia after 31 December 2020 you still need to complete the 2020 Annual Return.
- If you do not submit the 2020 Annual Return **and** pay the 2021 Annual Practice Fee by 31 December 2020, you will need to pay a late fee of \$229 in January 2021.
- The VSBSA office is closed on 29 December and 30 December 2020. However, the office will be open on all other business days during the Christmas/New Year period including 24 December 2020 and 31 December 2020.

Correspondence was sent to all veterinary surgeons about registration renewal on 30 November 2020. If you have not received the letter with log in details by 15 December 2020, please email us at admin@vsbsa.org.au



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2. Role of the VSBSA

The VSBSA is a regulatory authority established by the [Veterinary Practice Act 2003](#).

The VSBSA's role is to perform its regulatory functions under the Act to protect:

- the public interest; and
- animal health, safety and welfare.

The VSBSA exercises its regulatory functions in a procedurally fair way, with the object of achieving and maintaining high professional standards of competence and conduct by veterinary surgeons.

3. New contemporary CPD Guidelines take effect on 1 January 2021

The VSBSA regulates the conduct and competence of veterinary surgeons in the public interest by setting professional standards, codes of conduct and CPD guidelines.

Veterinary surgeons should regularly review all VSBSA professional standards, codes of conduct and guidelines published on its website:

https://www.vsbsa.org.au/Guidelines, Codes, Standards_side link 50 Guidelines, Codes, Standards.html

Last year, the VSBSA wrote to veterinary surgeons about a proposal to enhance its CPD Guidelines for the purpose of promoting public confidence in professional standards.

The VSBSA recently finalised its review of CPD Guidelines for South Australian veterinary surgeons.

New, contemporary CPD Guidelines will take effect on 1 January 2021 and will require all veterinary surgeons to complete 90 units of CPD activity flexibly over a period of 3 years. The new CPD Guidelines can be found on the VSBSA website:

https://www.vsbsa.org.au/CPD_side link 14 CPD.html

The VSBSA received multiple submissions in relation to the proposed CPD Guidelines. These were collated and contributed to the new Guidelines. The feedback resulted in:

- Significant expansion of the scope of CPD activity which can be counted as CPD units. For example:



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- Continuing Veterinary Education (CVE) activity can now include training in areas such as communications, mental first aid, resilience, human resources and financial management
- Collegial Learning (CL) activity can now include demonstration of procedures, teaching activities, supervision of residents, supervision of veterinary students and staff mentoring
- Self-Directed Learning (SDL) activity can now include preparation of case reports and preparation of specialist reports for an external body such as a court of law
- Simplified CPD unit allocation system for veterinary specialists, aligned with the system for general practitioners
- Streamlined approach to reporting CPD from 2021 - which will require veterinary surgeons to maintain full CPD records and declare at the end of each year that they comply with the CPD Guidelines but not provide details of CPD activity in annual returns

4. Veterinary Practice Legislation Review

The following message is from the Executive Director of BiosecuritySA, Department of Primary Industries and Regions:

The Minister for Primary Industries and Regional Development has publicly released a discussion paper regarding the review of South Australian veterinary practice legislation. A copy of the discussion paper is available on the Government's YourSAy website:

<https://yoursay.sa.gov.au/decisions/review-of-veterinary-practice-in-sa/about>

As a South Australian veterinary surgeon, the Department of Primary Industries and Regions (PIRSA) welcomes your contribution to this review process, which aims to ensure the [Veterinary Practice Act 2003](#), and [Veterinary Practice Regulations 2017](#) remain contemporary and effective.

The veterinary practice legislation primarily provides for the registration and regulation of veterinary surgeons to protect the public interest and animal health, safety and welfare. It sets the framework to ensure qualified, skilled and regulated professionals provide veterinary treatment in South Australia.

PIRSA invites veterinary surgeons to consider the topics raised within the discussion paper and the implications for them and their practice. In particular, the following issues are key aspects of the review:

- registration of paraprofessionals



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- registration of veterinary premises
- scope of veterinary treatment
- service provision by non-veterinary animal care providers

The valuable perspective of veterinary surgeons will assist in determining what legislative changes may be considered at the conclusion of the review.

Veterinary surgeons are encouraged to provide feedback, to either some questions or all questions in the discussion paper.

Please note that this is a legislative review of the Act and the Regulations, not the day to day operations of the Veterinary Surgeons Board of South Australia (VSBSA). The review is being conducted by PIRSA and is independent of the VSBSA. Submissions to PIRSA should relate to how the legislation itself may be improved, in keeping with the scope of the review.

Stakeholder and public consultation will be open until 31 January 2021. Submissions can be made via the YourSAy website: <https://yoursay.sa.gov.au/decisions/review-of-veterinary-practice-in-sa/about>

Please contact PIRSA.VeterinaryPracticeActReview@sa.gov.au if you require further information about the review and submission process.

5. Recent Decisions

The VSBSA upholds high professional standards by assessing notifications about veterinary surgeons and taking appropriate action. A notification is:

- a concern raised about the conduct, performance or health of a veterinary surgeon; or
- a concern that a person may be engaging in unlawful activity such as pretending to be a veterinary surgeon or providing veterinary treatment as an unqualified person.

Most notifications are resolved informally through means such as counselling, issuing written warnings and accepting voluntary undertakings.

However, some notifications are not suitable for informal resolution as the veterinary surgeon/unqualified person may not be a willing participant or the matter may raise serious public or animal welfare concerns. These notifications require formal investigation under the *Veterinary Practice Act 2003* before a decision is made about whether to take disciplinary or prosecutorial action in the interest of protecting the public interest and animal health, safety and welfare.



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a) South Australian Civil and Administrative Tribunal Disciplinary Decision – Veterinary Surgeon – Unprofessional Conduct

On 9 November 2020 the South Australian Civil and Administrative Tribunal (Tribunal) found a veterinary surgeon guilty of unprofessional conduct.

The VSBSA argued that the veterinary surgeon breached his/her obligations under the [Code of Professional Conduct for Veterinary Surgeons](#) (Code of Conduct) by failing to provide all relevant details of an animal's clinical history to another veterinary surgeon and speaking to a colleague in an aggressive and abusive manner.

The South Australian veterinary surgeon carried on private practice and treated a dog for a period of 6 years. The dog's owners then moved interstate and sought treatment for the dog through an interstate registered veterinary surgeon.

The interstate veterinary surgeon requested that the South Australian veterinary surgeon provide details of the record of treatment to provide a basis for ongoing treatment. The South Australian veterinary surgeon provided a one-page summary prepared from the full clinical record. The full clinical record comprised just over 16 pages.

The South Australian veterinary surgeon contended that the non-disclosure was justified, arguing that if full clinical notes were distributed, he/she may be subject to legal liability which would not be covered by his/her professional indemnity insurance policy. The veterinary surgeon further argued that he/she was misled by discrepancies in the wording between a handbook formerly published by the VSBSA and the Code of Conduct.

Section 5(g) of the Code of Conduct provides that:

A veterinary surgeon who has previously treated an animal must, when asked by another veterinary surgeon who has taken over treatment of the animal, provide all relevant details of clinical history directly to the other veterinary surgeon.

The VSBSA alleged that the one-page summary did not amount to 'all relevant details of clinical history', which was disputed by the South Australian veterinary surgeon. The veterinary surgeon also raised other arguments concerning the validity of the Code of Conduct and its applicability to South Australian veterinary surgeons. The veterinary surgeon claimed that the Code of Conduct did not give rise to a legal duty to adhere to it but that it was merely 'advice'.

The following is an excerpt from the Tribunal's decision:

The fundamental textbook, Veterinary Medicine by Blood and Henderson, states on page 1:



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History taking is the key to accurate diagnosis in veterinary medicine and to be worthwhile it must be accurate and complete.

In order for a veterinarian to make an accurate diagnosis and to formulate and implement a treatment plan, which will be in the best interest of the animal patient, it is essential to have a complete history of previous conditions and treatment.

For example, some medical conditions are recurring e.g. seasonal allergies, and knowledge of previous occurrences and details of effective treatment, enables prompt relief to be provided. Other medical conditions may develop or escalate in seriousness over a period of time, in which case an accurate description of the animal at each examination, enables the treating veterinarian to assess the rate or state of the disease process.

It is also essential for a veterinarian to have knowledge of any adverse effects on an animal of medications previously administered, as repeat administrations may have serious, even life-threatening consequences. A complete history would contain details of previous treatments, and would note if the treatment was not successful, which would prevent a new veterinarian repeating such treatment. Clinical history also records any investigative or diagnostic procedures carried out and thus eliminates the need to repeat them, which may avoid putting the animal through unnecessary stress.

The one-page history statement for the dog [...], as provided [...] fails to provide findings of clinical examinations conducted, full details of drugs and dosages used or description of adverse reactions. It is inadequate for another veterinarian to understand the condition of the dog at any previous date.

[The dog] had a complex medical history as she apparently suffered from several conditions. A new veterinarian would have faced major challenges in diagnosis and optimum treatment without the full history.

The Tribunal found that the term 'all relevant details of clinical history' includes:

- *Owner's reason for presenting the animal*
- *Weight*
- *Body condition*
- *Demeanour*
- *Body temperature*
- *Respiration rate*
- *Any abnormalities noted on examination*
- *Differential diagnoses*
- *Further diagnostic tests ordered (bloods, x-ray, ultrasound etc)*
- *Treatment prescribed (drugs, dosages)*
- *Results of tests*



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The Tribunal found that the 16 pages of clinical records kept by the South Australian veterinary surgeon were appropriate, and further that there was nothing to suggest that the veterinary surgeon had been incompetent in the provision of treatment to the dog, or that any harm to the dog had actually resulted from his/her failure to provide all relevant details of clinical history. The Tribunal considered that the veterinary surgeon could easily have provided such details at no personal disadvantage, but chose to refuse to do so.

The South Australian veterinary surgeon denied engaging in an aggressive and abusive conduct towards the interstate veterinary surgeon. Having considered the evidence, the Tribunal found that the South Australian veterinary surgeon was unnecessarily aggressive during the relevant telephone conversation. In relation to this matter, the Tribunal found that the veterinary surgeon had breached section 2 of the Code of Conduct in that he/she had failed to communicate effectively and treat all with whom he/she came into contact with respect, consideration, courtesy and openness, and further that he/she had not conducted herself in a manner that maintains and enhances the reputation of the profession.

The Tribunal found that there was proper cause for disciplinary action and determined that the veterinary surgeon's aggressive conduct when interacting with a colleague, as well as his/her failure to provide all relevant details of the dog's clinical history, amounted to unprofessional conduct.

The veterinary surgeon refused to acknowledge that he/she was obliged to follow the Code of Conduct during cross examination. This matter was of great concern to the Tribunal. It indicated to the Tribunal a lack of understanding of professional obligations and a lack of remorse. The Tribunal made it clear to the veterinary surgeon that his/her professional obligations as a veterinary surgeon include accepting and following the Code of Conduct.

The Tribunal reprimanded the veterinary surgeon and imposed a fine of \$1,000.

b) Magistrates Court of South Australia Judgment – Chiropractor – Providing Veterinary Treatment for Fee or Reward as an Unqualified Person

When notifications about the potential illegal provision of veterinary treatment by unqualified persons are received by the VSBSA, they are either:

- informally resolved (for example by the VSBSA issuing 'cease and desist' notices); or
- prosecuted by the VSBSA in the Magistrates Court of South Australia.



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On 28 October 2019, Dr Bernard Nadolny, a registered chiropractor, was found guilty of six out of seven counts of unlawfully providing veterinary treatment for fee or reward whilst not being a qualified person or providing that treatment through the instrumentality of a qualified person, contrary to section 39(1) of the *Veterinary Practice Act 2003*.

His Honour Magistrate Nitschke recorded a conviction for each count and imposed a global fine of \$11,000.

The purpose of section 39 of the Act is to protect the public interest and animal health, safety and welfare by making it an offence to provide veterinary treatment for fee or reward unless that treatment is provided by, or through the instrumentality of, a qualified person (being a registered veterinary surgeon), or by an unqualified person (such as a registered health professional) in prescribed circumstances.

Registered health professionals, including chiropractors, are only able to provide veterinary treatment, as unqualified persons, where that treatment is provided 'in accordance with the directions of a veterinary surgeon', pursuant to regulation 6(c) of *Veterinary Practice Regulations 2017*.

In the matter of *Veterinary Surgeons Board of South Australia v Bernard Nadolny*, His Honour found that the phrase 'in accordance with the directions of a veterinary surgeon' "*connotes a hierarchy of control and supervision exercised by a veterinary surgeon over relevant treatment provided by the [registered] health professional*".

His Honour commented that a mere 'referral' from a veterinary surgeon to a registered health professional will not satisfy the requirement for the veterinary treatment to be provided 'in accordance with the directions of a veterinary surgeon'.

His Honour further commented that a veterinary surgeon should positively communicate with the registered health professional prior to the provision of veterinary treatment by the registered health professional, and that a registered health professional should positively communicate with the veterinary surgeon following veterinary treatment to ensure that the treatment was provided in accordance with the veterinary surgeon's directions.

A copy of the Magistrates Court of South Australia judgment can be accessed [here](#).

10 December 2020