Recommended key principles for veterinary practice acts in Australia

Approved by the AVA Board 25 July 2014

1. **Objects of the Act**

The object of veterinary practice acts should be to regulate the practice of veterinary science to ensure that acceptable standards are required to be met by veterinary practitioners so as to:

- protect the health, safety, and welfare of animals
- protect the public health, safety and welfare
- protect consumers so that they have confidence in accessing veterinary services that are provided by competent persons holding recognised qualifications from approved training institutions, and
- meet international trade requirements.

2. **Functions of veterinary boards**

Functions of veterinary boards should be:

- to register veterinary practitioners and veterinary specialists
- to recognise qualifications and accredit/approve courses of training which provide qualifications for registration as veterinary practitioners and specialists
- to investigate the professional conduct or fitness to practise of registered veterinary practitioners and impose sanctions where necessary
- investigate allegations of professional misconduct by registered veterinarians
- to facilitate mediation between a veterinarian and complainant where appropriate
- to investigate suspected offences against Veterinary Practice Acts and to prosecute such offences, including persons not registered with the Board who engage in acts of veterinary science
- investigate and regulate the performance of 'acts of veterinary science' (or surgery or medicine)
- to issue guidelines about appropriate standards of veterinary practice and veterinary facilities
- to licence veterinary facilities
- to arrange, where it thinks necessary, for the inspection of veterinary facilities
- to promote high standards of professional conduct in the provision of veterinary services
- to prepare or endorse guidelines on continuing education for veterinary surgeons
- to prepare or endorse codes of conduct and professional standards for veterinary surgeons
- to provide advice to the Minister and government with respect to any matters in connection with the administration of this Act and in relation to veterinary services and any other information reasonably required by the Minister
3. National recognition of veterinary registration

The ideal would be a single national Act governing veterinarians in Australia.

However it is acknowledged that this would be difficult to accomplish in the short to medium term and that the first step should be the completion of mutual national recognition of veterinary registration across all states and territories. This should be followed by harmonisation of the key components of the relevant legislations as outlined in these recommendations.

All states and territories should adopt changes to their legislation to allow national recognition of veterinary registration as soon as possible. This includes the implementation of the following recommendations which appeared in the regulatory impact statement released by the Department of Agriculture, Fisheries and Forestry in 2007:

- There is a provision in the relevant Act that regulates the conduct of veterinary surgeons/practitioners, to the effect that a person shall be deemed to be registered under that Act in that state or territory if that person is registered as a veterinary surgeon/practitioner under an equivalent Act in another state or territory.
- This provision shall only apply in the case of persons holding general and/or specialist registration.
- This deemed registration shall be subject to the same conditions, restrictions or limitations (if any) that apply to the (primary) registration in the first state or territory.
- This registration shall be deemed to be suspended or cancelled if it is suspended or cancelled in the first state or territory.
- All legal rights and obligations applying normally to registered veterinary practitioners under the relevant Act in the state or territory shall apply equally to persons deemed to be registered in accordance with 1 above.
- A person must apply for primary registration in the state or territory of their primary business. If a registered veterinary practitioner moves his/her primary place of business to another state or territory they shall advise the Board in that new state or territory within one month of such a move.

4. Board composition, establishment and term

It is recommended that:

- veterinary board members should be in the majority veterinarians
- boards should have some non-veterinary consumer member(s)
- the legislation should not require the Chair of the board to be a lawyer
- the legislation should not require there to be a lawyer on the board but may state that a member of the board being a lawyer may be an advantage
- some basic legal and governance training should be provided to new board members e.g. levels of evidence
- the appointment of board members should be staggered to avoid a board with limited experience
- the best way to select the board members would be for the Minister to appoint an advisory selection committee – consisting of representatives from the AVA, universities (where relevant), government, board and consumers.
5. **Staff**

Legislation should allow for veterinary boards to employ and manage a registrar and other staff as needed for the proper performance of the board’s functions.

6. **Committees**

The board should be able to establish committees to delegate certain of its functions to.

- This should include the ability to establish a committee to investigate complaints into professional conduct.
- The board must not be able to delegate the determination of a complaint.
- The board should be able to appoint persons with expertise outside the board to advisory committees.
- All committees should include at least one member of the board.
- The presiding member of any committee should be a board member

7. **Registration of veterinary practitioners**

- Veterinary boards should keep the following registers:
  - a general register of veterinarians
  - a specialist register
  - a register of persons who have been removed from the general or specialist register and have not been reinstated

- Acts of veterinary science may only be performed by those registered on the general register.
- Only those registered as a specialist can purport to be a specialist.
- A person cannot be on the specialist register unless the person is also on the general register.
- The general and specialist registers must include for each veterinarian:
  - the person’s full name
  - date of birth
  - their business address
  - a contact phone number
  - a contact email address
  - the qualifications for registration that are held by the person
  - in the case of a specialist what speciality the person is registered
  - particulars of any limitation or conditions that affects or restricts the person’s right to perform acts of veterinary science

- The register of persons who have been removed from the general or specialist register must include:
  - the reason for removal of the person
  - the date of the removal
  - whether removal was due to disqualification or suspension, the duration of the suspension
• The registers (excluding email and phone numbers) must be kept available for inspection during working hours at the office of the board and may be made available to the public by electronic means.
• Boards should be able to supply the Australian Veterinary Association the general register excluding phone numbers and email addresses each year to allow better workforce needs analysis.
• A veterinarian must, within 3 months after changing his or her name, business address, phone number or email, inform the board in writing of the change.

**Eligibility for registration to the general or specialist register**

The person must satisfy the Board that she or he:

• has qualifications in a course approved by the Australian Veterinary Board Council (AVBC).
• is medically fit to provide veterinary treatment
• is covered by appropriate professional indemnity insurance appropriate to the work they undertake.
• is a fit and proper person to be registered
• Limited registration for those without the required qualifications may be available to allow a person to undertake research, teaching or study.
• The Board may impose one or more of the following conditions of registration of a person:
  o Restriction to the time and place at which the person can do acts of veterinary science
  o Limits to the kind of acts of veterinary science that may be provided
  o Conditions requiring supervision
  o Limited access to scheduled drugs.

8. **Specialists**

All veterinary boards should keep a register of veterinary specialists.

• Only those registered as a veterinary specialist can purport to be a veterinary specialist
• A person cannot be on the specialist register unless the person is also on the general register
• All specialists should be assessed by the Advisory Committee on Registration of Veterinary Specialists (ACRVS), a committee of the AVBC. The ACRVS should make a recommendation to the board for their consideration as to whether registration should be approved.

The list of prescribed specialities should be harmonised across all states and territories as determined by the AVBC with advice from the ACRVS.

9. **Unregistered practice**

All boards need the ability to place appropriate penalties on any person who performs a restricted act of veterinary science while not appropriately trained, qualified or registered or purports to be registered when not.
10. **Students**

A person who is a student enrolled in an accredited veterinary degree should be able to perform a restricted act of veterinary science when doing so as part of the requirements of the course under the direct and immediate supervision of a registered veterinary practitioner.

11. **Use of name or pretending to be registered**

A person must not represent themselves to be a veterinary practitioner or allow themselves to be represented to be a veterinary practitioner unless they are a registered veterinary practitioner.

Without limiting the ways in which person can be considered to be represented to be a veterinary practitioner, a representation using any of the following titles, names or descriptions constitutes such a representation:

- veterinary surgeon
- veterinarian
- vet
- animal doctor
- animal dentist
- veterinary dentist.

To give consumers clarity and protection the use of the word “veterinary” should also be removed from university and TAFE courses that do not lead to a registrable veterinary degree.

Consideration could be given to encourage a specific Registered Veterinarian post-nominal to recognise those currently registered rather than those with a veterinary degree (e.g. as in UK).

12. **Restricted acts of veterinary science**

Any act of veterinary science must be restricted to registered veterinary practitioners.

An ‘act of veterinary science’ means services which form part of the practice of veterinary surgery and medicine, and includes, the diagnostic confirmation of, treatment of, and provision of management advice for; infectious disease, physiological dysfunction or injury in animals performing surgical operations on animals, administering anaesthetics to animals; the prescribing of scheduled poisons for use in animals, prescription of vaccines, and the provision of veterinary certificates.

No person other than a person who is a registered veterinary surgeon shall sign any certificate or other document prescribed by or under any Act which requires the signature of a veterinary surgeon or veterinary officer in respect of the certification of disease status, including freedom from disease of any animal or animal product.

In addition to the above, the following should only to be performed only by registered veterinary surgeons:

- stomach tubing or oesophageal intubation of horses
- artificial insemination of horses
- sampling of tissue of live animals
- pregnancy testing of horses by rectal examination
- microchip insertion in horses
• laparoscopic insemination
• general anaesthesia
• the carrying out of any treatment, procedure or test that involves the insertion of anything in the nasal passage, nasal sinuses, thoracic cavity, abdominal cavity, pelvic cavity, cranial cavity, spinal cavity, tooth alveolar cavity, eye, orbital cavity, tympanic cavity, joint spaces or any other synovial cavity of any animal
• the performing of any dental procedure on any animal other than manual rasping on a horse performed by a person with an appropriate Certificate IV qualification
• the performing on a horse of any dental procedure that involves:
  o making an incision through the skin or oral mucosa, or
  o extracting a tooth by repulsion; or
  o entry below the gum line; or
  o any other activity to maintain or restore correct dental function (except basic hand filing and rasping).
  o the use of a power tool /

Veterinarians who are employed in public service positions within a government department where the position requires the employee to hold a veterinary degree or where they are certifying freedom from disease should be required to be registered

For animal welfare and practicality reasons there are some areas that may be exempt from the above. The principle of protection of the animal should be the cornerstone of any exemptions. The list of exemptions will be referred to AVA Policy Advisory Council to confirm. These exemptions should be grouped in specific areas:

• Species specific
• Research – laws presently vary in different states, the VPA Review Taskforce agreed that the minimum requirement should be the need for veterinary oversight where any act of veterinary science was to be undertaken. There were varied opinions between the members of the taskforce as to what should only be performed by a veterinarian or what needed direct veterinary supervision.
• Husbandry
• Student
• Veterinary Technician

13. Disciplinary proceedings and complaints against registered veterinary practitioners

The board must investigate a complaint concerning the professional conduct of a practitioner unless the board determines that the complaint is lacking in substance or is vexatious.

• Complaints must be in writing
• A complaint may only be made against a registered veterinarian within 12 months of the complainant becoming aware of the grounds of the complaint.
• The board may initiate a complaint if it becomes aware of a possible breach of professional conduct.
• All investigation or hearing committees or panels must contain at least one veterinarian.
• The board may suspend the registration of a veterinary practitioner until any investigation is completed only if the board is of the opinion that it is necessary to do so because there is a serious risk of endangerment to:
The health and safety of the public
- The welfare of animals
- The integrity of the racing or other industry
- The integrity of the country’s biosecurity systems.

- Investigations need to be timely, with veterinarians notified within 28 days after any hearing, with a written notice stating findings.
- The veterinarian needs to have the right of appeal on decision.
- The board must supply a written reason for a final decision if requested.
- Only hearings to determine unprofessional conduct of a serious nature should be open to the public.
- Only findings of a serious nature should be published.
- The board should provide details of support organisations and personnel to veterinarians under investigation.

14. Inspectors and investigations

While it is recognised that Board should have the power to enter a premises (this includes a vehicle) to inspect, this power should only be available when there is reasonable cause to believe that a person is doing or has done an act where any provision of the Act or regulations has been contravened or the conduct of veterinarian constitutes unprofessional conduct.

- The inspection needs to be at a reasonable time.
- The inspector should not enter residential premises without permission of the occupier.
- The inspector must be clearly identifiable with a signed photograph identity card and appropriately trained
- Inspectors should be appointed by the board, and board members should not be inspectors.

(This does not relate to the inspection for the purposes of licensing or accreditation of premises)

15. Appeals of decisions of the Board.

There need to be clear appeal processes for decisions made by the board relating to complaints and registration.

16. Unprofessional conduct

Veterinary legislation should include a Code of Professional Conduct or refer to the AVA Code of Professional Conduct to provide veterinarians with guidance as to what would constitute unprofessional conduct.

Input is needed as to what should be included in the Code. Reference to the ACT, NSW, NT and AVA Codes of Professional Conduct will help with this task.

The Code should include as a minimum:

- Reference the standards that conform with current expectations of peer veterinarians
- Primary concern for the welfare of animals
• Not refusing to provide relief for an animal in pain or suffering, except where it puts the veterinarian’s safety at risk.
• The requirement to refer where appropriate
• Not misleading, deceiving or behaving in such a way as to have an adverse effect on the standing of any veterinary practitioner or the veterinary profession.
• Where possible, obtaining the informed consent of the person responsible for the care of an animal before providing veterinary services to the animal.
• Maintain the confidentiality of information obtained in the course of professional practice
• The requirement to keep adequate clinical records
• All certification by a veterinary practitioner must be accurate.
• That a veterinary practitioner must not perform a surgical operation for the correction of an inheritable defect, or provide medical treatment for an inheritable disease, unless the primary purpose of the operation or treatment is to relieve or prevent pain or discomfort to the animal concerned and they advise the owner not to breed from the animal.
• Rules for use of prescription and scheduled medication

17. Penalties

When unprofessional conduct is determined against a registered veterinary practitioner the penalties applied should be appropriate to the seriousness of the breach and include any or all of the following:

• That the veterinary practitioner undergo counselling
• That the veterinary practitioner undergo further education
• That the veterinary practitioner is cautioned
• That the veterinary practitioner is reprimanded
• Imposing a fine
• Imposing conditions, limitations or restrictions on the registration
• Suspend registration
• Cancel registration.

The veterinarian should have the right to appeal decisions made by the board.

Veterinary practice acts should not include powers for the board to award compensation to the complainant.

18. Impaired licensed veterinarian and credentialed veterinary technician

A veterinarian should be considered to suffer from impairment if the person suffers from any physical or mental impairment, disability, condition or disorder which detrimentally affects or is likely to detrimentally affect the person’s capacity to practise veterinary science, cause potential endangerment of public health and the veterinarian’s own health. Habitual drunkenness or addictions to a deleterious drug are also considered to be a physical or mental disorder.

The power to require medical examination by a medical professional determined by the board when there is a complaint or evidence that a veterinarian may be impaired should be in place. The board should be able to place conditions or suspend a veterinarian in the case where an animal’s health, safety or welfare is endangered.

The board should only remove the right to practice where it is clearly evident that patient care or safety is endangered. Where the impairment is due to substance abuse, alongside or instead of any
restrictions the board should establish an impaired veterinarian program similar to that available to the medical profession. This impaired veterinarian program should be consistently applied by rule and include a program of care, counselling, or treatment for impaired registered veterinarians.

The program of care, counselling, or treatment shall include a written schedule of organised treatment, care, counselling, activities, or education satisfactory to the board, designed for the purposes of restoring an impaired person to a condition whereby the impaired person can practice with reasonable skill and safety of a sufficient degree to deliver competent patient care.

In the case of controlling access to schedule 8 drugs available within the workplace, it may be necessary to inform other staff members if the veterinarian is to return to the workplace and this should be part of the agreed program of rehabilitation.

The Act must include a clause to ensure privacy of medical reports relating to impaired veterinarians.

19. Continuing professional development

Continuing professional development (CPD) should be mandated for all registered veterinarians.

The CPD points system should be the same as the current AVA’s VetEd points table. If there were any change in the amount of CPD or allocation of points this should be agreed to through the AVBC.

There should be consistent requirements of recency, CPD and evidence of competency for those returning to practice after a prolonged absence or those moving to another area of veterinary practice.

20. Requirement to hold professional indemnity insurance

All registered veterinary practitioners should be covered by professional indemnity insurance appropriate to the work they perform as a condition of ongoing registration.

Regulations should specify the minimum level of cover required, whether it can be provided through the practice’s insurance, take into account those that do not work in clinical practice and state that the insurance needs to cover the area of work the veterinarian is undertaking (for example some insurance products exclude equine work).

21. Regulation of veterinary premises

The regulation of premises is desirable under the Act. There was acknowledgement that cost of inspection can be a limiting factor for Boards in smaller jurisdictions.

Boards should be allowed to decide how they audited and inspected practices. For example:

- Inspections when applying to open premises
- Inspections every 3 or 5 years
- Self-inspection lists sent out in intervening years
- Inspection when a complaint received.

There should also be clear guidelines for mobile services.
22. Veterinary nurses

There needs to be more consistency in the competencies of graduates from different providers of the Certificate IV veterinary nursing course across Australia before recommending veterinary nurse registration in all states.

23. Paraprofessionals

There is concern about allowing paraprofessionals the ability to perform restricted acts of veterinary science without the underpinning knowledge obtained in veterinary degree often required to ensure the best outcomes for the animal. The Act is an appropriate place to recognise any course, qualification or level of supervision that is appropriate to allow the practice of any restricted acts of veterinary science under permit, but there should be safe guards that require stringent review of the qualifications, that the qualifications are recognised in Australia and competencies of the persons before the board can accredit or approve. Para-veterinary professionals should be under the employ and supervision (indirect) of a veterinarian at all times.

24. Drug prescribing

A veterinarian must be required to follow all legislation relating to prescription of scheduled drugs. Any veterinarian found guilty of an offence under this legislation should be found guilty of unprofessional conduct or misconduct.

A veterinarian should only supply prescription or scheduled substances for animals under their care.

For an animal or herd to be under a veterinarian’s care:

- the veterinary surgeon must have been given responsibility for the health of the animal or herd by the owner or the owner’s agent;
- this responsibility must be real and not nominal;
- the animal or herd must have been seen immediately before prescription; or
- recently enough or often enough for the veterinary surgeon to have personal knowledge of the condition of the animal or current health status of the herd or flock to make a diagnosis and prescribe; and
- the veterinary surgeon must maintain clinical records of that herd, flock or individual.

A veterinarian who supplies or prescribes a scheduled drug must make a clinical record of the supply or prescription including:

- the name and address of the owner of the animal; and
- sufficient details to identify the animal; and
- the clinical history of the animal including the results of any examination of, or diagnostic tests carried out on, the animal; and
- the name of the drug; and
- the quantity of the poison supplied or prescribed.

There may need to be some consideration to the need for exceptions in remote areas, such as contained in the WA legislation.
A veterinary practitioner must not obtain any restricted substance medications in order to take that substance himself or herself.

25. Controlling interest

The minimum requirement should be for all legislations to include a form of veterinary oversight in practice veterinary protocols and a clause that makes it an offence for a person who employs a registered veterinarian to incite unprofessional conduct.

26. Advertising

A person or corporation must not advertise a veterinary practice or veterinary services in a manner which:

- is or is intended to be false, misleading or deceptive
- is likely to adversely affect the reputation or standing of any veterinary surgeon or the veterinary profession
- expressly or impliedly claims superiority for the veterinary surgeon over any or all other veterinary surgeons.

27. Miscellaneous

The following are other miscellaneous recommendations relating to veterinary Acts:

- There are requirements in the length of time clinical records need to be kept should be consistent at 5 years.
- Competency in written and spoken English to should be required for general registration. (Limited registration could be considered if there was a special needs area that did not require this).
- All states and territories should have the same registration renewal date.
- There should be clear clauses regarding secrecy or confidentiality of clients’ records, and detailing how this applies during investigation of complaints and when a veterinarian is required to produce records.
- The inclusion into veterinary regulations that any animal placed in the custody of a registered veterinarian for treatment, boarding or other care, which is not retrieved by the client within fourteen calendar days after written notice is sent by certified mail, registered mail, postage pre-paid return receipt requested, or courier with confirmation of receipt to the client at the client's last known address shall be deemed to be abandoned. The veterinarian needs to inform the owner in writing when they leave the animal that this will be the case. Such abandoned animal may be turned over to a humane society or animal shelter, adopted or otherwise disposed of by the licensed veterinarian. If notice is sent, the registered veterinarian responsible for such abandoned animal is relieved of any further liability for disposal. If a licensed veterinarian follows the procedures of this section, the veterinarian shall not be subject to disciplinary action under this Act, unless such registered veterinarian fails to provide the proper notification to the client.
- All boards should be required to collect and publish a minimum set of data on the veterinary workforce within their state or territory. The data collected should be the same over all the jurisdictions to allow for accurate comparisons and to allow proper analysis of workforce. This is essential to ensuring that animal welfare and public needs are addressed.
- There is clear recognition of the role of the Australian Veterinary Board Council and its committees in the legislation.
- In the interest of integrity and animal welfare a regulation should be incorporated into all veterinary Acts making the veterinary act the default disciplinary body and to prevent veterinarians being licenced by any external individual or group apart from the veterinary board.
- If there is a potential breach of another Act there should be the ability to refer a complaint or investigation to the appropriate authority. Particularly where the complaint related to animal cruelty.