

Newfoundland and Labrador Veterinary Medical Association Supplemental Submission

Request:

Veterinary records remain confidential under ATIPPA.

Rationale:

Veterinary records are generated during the course of practicing veterinary medicine and intended for veterinary interpretation. Veterinary records are used to make a diagnosis which means that there is an interpretation or conclusion made. Based on the diagnosis, the treatment (including mitigation measures) will be recommended. These activities fall within the definition of veterinary medicine. Only licensed veterinarians are permitted to practise veterinary medicine.

Veterinary Medical Act

- 1) The *Veterinary Medical Act (2004)* defines veterinary medicine as veterinary medicine, surgery, pathology and dentistry and includes:
 - a. the diagnosing, prescribing, treating, manipulating and operating for the prevention, alleviation or correction of a disease, injury, pain or other similar condition in or of an animal.
- 2) The *Veterinary Medical Act (2004)* Section 30 (1) states that a person shall not engage in or practise veterinary medicine unless he or she holds a veterinary licence.
- 3) The *Veterinary Medical Act (2004)* section 16 (1) states that the Board may make by-laws about (l) standards of practise for veterinarians and veterinary clinics.
 - a. Clinic Standard by-law 2.1 3(8) states that unless required for the purposes of a clinic inspection, or other legitimate action of the College, a medical record is considered to be a confidential records that is accessible only to the owner of the animal (or representative) and the attending veterinary clinic.
 - b. VCPR by-law states that when a veterinarians feels that the health and welfare of the animal would be compromised by the VCPR standards, the veterinarians may apply to the Board for permission to work outside of the VCPR.
 - c. Confidentiality by-law states that revealing information concerning a client, an animal or any professional service performed for an animal, to any person other than the client or another member treating the animal is prohibited except in particular circumstances.

Roles of Government Employed Veterinarians

- 1) Regulatory Role – Veterinarians conduct and oversee site visits, oversee sample collection and diagnostic testing, interpret results and provide information for regulatory purposes. This is typical for **Active Surveillance Programs** which are designed to actively look for specific pathogens. Typically these programs are designed to detect Reportable Diseases or to surveil for emerging diseases of concern.

- a. Active surveillance for Infectious Salmon Anaemia virus (ISAv) is overseen by the Aquatic Animal Health Division of the Department of Fisheries, Forestry and Agriculture. According to the Aquaculture Policy and Procedures Manual AP 17, aquaculture companies are required to report suspect and confirmed cases as well as regulatory actions required.
 - b. Veterinarians in this role practise “veterinary medicine” and therefore must be licensed by the Newfoundland and Labrador College of Veterinarians to complete this work.
 - c. Veterinary records collected during the course of this work must remain confidential and not shared with individuals who do not have the training to interpret them.
 - d. Regulatory programs are designed to safeguard public health and food security; inform government; maintain animal health; and ensure animal welfare. Properly interpreted summary documents can be generated from the active surveillance programs and be provided to government, public or other stakeholders as required.
- 2) Primary veterinary care – Veterinarians visit farms; provide veterinary care to academic researchers; provide veterinary care to private citizens who own horses; and provide laboratory services to farms; and privately owned veterinary clinics.
- a. Examples include going to a farm because an owner has a lame horse, a cow is having trouble giving birth or it could be a consult to discuss vaccine protocols, nutrition, biosecurity or farm health plans.
 - b. Although not common, one of these visits could result in the detection of a Reportable Disease and when that occurs the veterinarians are required to report this to the Canadian Food Inspection Agency under the *Health of Animals Act*, to Chief Veterinary Officer under the *Animal Health and Protection Act* or to the Chief Aquaculture Veterinarian through the *Aquaculture Act*.
 - c. Veterinarians in this role practice “veterinary medicine” and therefore must be licensed by the Newfoundland and Labrador College of Veterinarians to complete this work.
- 3) Policy advisors – Veterinarians also advise on policy and provide input into government related matters.
- 4) Chief Veterinarians – The province employs two chief veterinarians and they are responsible for many of the regulatory aspects on behalf of the province.
- a. Examples include: response to a Reportable Disease that requires provincial regulatory action by issuing Quarantine Orders, Depopulation Orders and overseeing related activities.
 - b. To make informed decisions, Chief Veterinarians must be able to review the raw veterinary records (site visit documents, laboratory results, veterinary interpretations, prescriptions, mitigation measures), make interpretations, conduct additional testing as required and have an open dialogue with the veterinarians who conduct the work in the field.

Discussion points

- During the course of practicing veterinary medicine, history collection, examinations and diagnostic tests will be conducted and interpreted by licensed veterinarians. These highly qualified professionals have the training, knowledge and skills to make a diagnosis and make recommendations. The documents generated from these activities are considered veterinary

records. If summary documents are required, due to a regulatory program, then veterinarians will interpret the veterinary records and provide a summary document that includes context. These summary documents can then be shared within government, the public or other stakeholders as required under that regulatory program.

- In order to ensure the highest standards of food security and animal welfare, veterinarians must be engaged in the practise of veterinary medicine for the province of NL. Due to the large and diverse geography of this province, private veterinary clinics are not economically viable. Government employed veterinarians are therefore faced with a significant issue when veterinary records are released because the trust with clients is broken and the information does not easily flow impacting the way that veterinary medicine is practiced. Without this trust, veterinarians are not able to fully engage in the practise of veterinary medicine and therefore the quality of veterinary care may become compromised.
- Government employed veterinarians practise veterinary medicine and the records that are obtained are understood to be confidential by both the client and the veterinarian.
- Information Management advises government employees that they only collect relevant information due to the protection and privacy issues. However, when veterinarians engage in the practise of veterinary medicine they must record all information during the case work up to ensure a wholesome history, physical examination and diagnostic picture is collected. Without this piece, they risk missing a diagnosis or a delayed response to a particular issue.
- The public is provided with information through a structured program that provides context such as AP 17 – Public Reporting policy in the Aquaculture Policy Procedures Manual which requires public reporting on Reportable Diseases, sea lice numbers, escapes, mortality events and Incidents. Some other examples include the Canadian Food Inspection Agency website which reports on Reportable Diseases and the DFO website which reports on treatments applied to aquaculture animals.
- Food veterinarians (large animal and aquaculture veterinarians) are difficult to recruit and retain and the veterinarians that currently work for government are already oversubscribed.
- *There are 17 veterinarian positions for the NL government, 12 of which are currently filled. There have been 4 veterinarians who left their position with government within the last year and all 4 have informed NaLVMA that the sole reason or a significant part of the reason for this departure was the way ATIPPA has impacted their ability to practise veterinary medicine. Despite efforts to recruit, there have been 2 open veterinary positions posted on the government website that have remained unfilled for a year.*

Comments on previous ATIPPA review

- The 2015 review indicated that there were no real life examples of how veterinary records are used within a government program or licensing structure:
 - Veterinary records are created when a veterinarian practises veterinary medicine and therefore they are created during the activities listed above including active surveillance and primary veterinary care. The records will include comments and notes related to history (i.e. feeding records, vaccinations records, stocking density), physical examination, diagnostic testing, interpretation and recommendations.
 - Provincial laboratories are licensed veterinary clinics and the records created by the laboratories are also considered veterinary records.

- The 2015 review indicated that business harm is utilized to prevent release of records under ATIPPA.
 - One recent example of how veterinary records were released through ATIPPA (FLR/120/2019) and these were not protected.
 - Negative consequences:
 - Mortality records were provided and the level of mortality prior to the mortality event was a topic of discussion as well the justification of why the farm was not being investigated under the *Animal Health and Protection Act*. The veterinarians who visited the farm know that any animal production system will have acceptable mortality levels based on the species of animal, life stage (or age) of the animal and other similar factors. The mortality level prior to the investigation was considered acceptable and other farms would have had similar numbers but this individual farm was unfairly targeted. Release of veterinary records will lead to misinterpretation and misunderstanding by those who are not licensed to practice veterinary medicine. This is why summary documents from regulatory programs are generated.
 - NaLVMA heard that at least 2 veterinarians left government over this case and the reason reported to NaLVMA was the ethical and moral reasons around this specific ATIPPA release. This resulted in lack of trust for other producers as a result of this breach. Loss of veterinarians directly impact productivity, animal health, public health, food security and animal welfare.