

Winter Issue June 2013

## IN THIS ISSUE

Registrar's Reflections	1
Fireworks Notification Website	1
Mobile Veterinary Practices – Routine Inspections	1
Questionnaire Corrections	2
Case 1 - Aggressive Rottweiler	3
Premise registration renewals now due	3
Case 2 - Caesarean surgery	4
Rabbit complaint	5
Dispensing of medicines for back yard laying hens	6
Board strategic plan	7
AVA National Workforce Survey	7
Radiation Safety in Veterinary Practices - Invitation to participate in research	8

## MOBILE VETERINARY PRACTICES – ROUTINE INSPECTIONS

The Board is currently carrying out inspections of mobile veterinary practices as part of its routine inspection policy. If you are running this type of practice and have not already been inspected, you should be contacted in the next few months by one of the Board's inspectors to arrange a suitable time for an inspection to be carried out.

## REGISTRAR'S REFLECTIONS

The lead article in this newsletter, which is titled "Questionnaire corrections", sets out how the Board investigates and resolves complaints about the conduct of veterinary surgeons. This is an area where there appears to be considerable misinformation and misunderstanding. The Board has provided the correct information in the article plus a discussion on two complaints that came before the Board.

A separate case history provides details of a complaint that was referred to the SAT and was resolved three months after referral.

In addition there are two separate invitations to participate in surveys in this newsletter. I understand that some of you may feel "surveyed out" as there have been a number of requests to participate in surveys. However, please give consideration to filling out these surveys as the results have the potential to benefit the profession.

In 2012 the AVA conducted its first National Workforce Survey. Results are available at [www.ava.com.au/about-us/policy-and-positions/topics-2](http://www.ava.com.au/about-us/policy-and-positions/topics-2). The response from WA was quite poor with only 14% of registered veterinary surgeons responding. The poor response from some states may have skewed the results so you are urged to consider participating in this year's survey. The results will be made freely available in 2014.

If you have not already participated in the survey about radiation safety in veterinary practices please think about doing so and assist with research into this vital area which can impact on the health of everyone working in practice. It is interesting that there has been a better initial response from veterinary nurses than from veterinary surgeons to the survey.

For the first time there is a photograph published in the newsletter of your Board and Deputy Board members, captured while they were attending a strategic planning day meeting in March this year.

Enjoy the newsletter and as always feedback is welcome and appreciated.

## CONGRATULATIONS

to Dr Paul Davey who was awarded the Medal of the Order of Australia for his service to veterinary science as part of the Queen's Birthday Honour's List for 2013 which was announced on 10 June 2013.

## FIREWORKS NOTIFICATION WEBSITE



The Department of Mines and Petroleum has a website that lists the schedule of firework events for the coming week.  
[www.dmp.wa.gov.au/documents/Fireworks.pdf](http://www.dmp.wa.gov.au/documents/Fireworks.pdf)

As many cats and dogs escape from homes and become injured during firework events you may like to alert your clients to the website so they can take extra care of their pets during these events.





## QUESTIONNAIRE CORRECTIONS

It has come to the attention of the Board that the Veterinary Defence Association (VDA) has recently circulated a questionnaire to some veterinary surgeons which contains information about two complaints made against veterinary surgeons which have come before the Board.

The Board considers that the questionnaire contains inaccuracies about the two specific complaints and about the Board's processes generally.

The Board is providing the following information to address the inaccuracies contained in the questionnaire and to provide an overview as to how the Board investigates and resolves complaints about the conduct of veterinary surgeons.

The Board has the statutory responsibility to maintain professional standards and has power under the Act to investigate complaints about the conduct of veterinary surgeons and to refer complaints to the State Administrative Tribunal (SAT) if the Board considers that a veterinary surgeon may be "guilty of unprofessional conduct as a veterinary surgeon".

The Board must also provide an annual report to the Minister which includes details of the number, nature, and outcome, of matters that the Board has brought before the SAT. The annual reports are posted on the Board's website.

The Board's website describes the process by which it handles complaints. If a formal complaint is made to the Board it will seek information directly from the veterinary surgeon and then consider all of the relevant information to determine whether there is a breach of the Act.

At the time of requesting information from a veterinary surgeon, the Board has not made any decisions about what has occurred but is simply gathering information to allow it to deal appropriately with the complaint.

In a large number of complaints the Board has, once the veterinary surgeon has provided their version of the events and the relevant supporting documentation, concluded that the veterinary surgeon's conduct met the relevant professional standards and the complaint has been "closed".

In 2010/2011 the Board received 37 complaints and determined in 34 of them that the evidence did not support a complaint of unprofessional conduct. In 2011/2012 the figure was 39 out of 43 complaints.

The Board deals directly with respondent veterinary surgeons and responses received on their behalf are

treated as if they were received from the veterinary surgeon personally. Delays and refusals to respond may be considered unprofessional conduct and could be the subject of separate disciplinary action, even if the actual response is written by a third party on behalf of the veterinary surgeon.

The Board will continue to communicate directly with the veterinary surgeon whose conduct is the subject of the complaint rather than through any third party.

For the last 100 years of the Board's existence veterinary surgeons have habitually honoured their professional obligation to cooperate with the Board and have complied with the Board's request to supply clinical records and their version of events in response to a complaint within a reasonable time period.

It is only recently that a small number of veterinary surgeons have not complied with the Board's requests. This has, in some of those cases, forced the Board to use its statutory powers and execute a warrant to obtain the information necessary for the Board to consider a complaint. Until this recent development, the Board has not issued warrants to be executed against veterinary surgeons.

Once a matter is referred to the SAT the Board's usual and preferred process is to seek an order from the SAT to mediate at the earliest possible opportunity so that complaints are resolved quickly and at the lowest cost possible.

Most of the complaints referred to the SAT are resolved at mediation and with very modest cost implications for both the Board and the veterinary surgeon. If there is a hearing of the case in the SAT, the SAT can impose "penalties" on the veterinary surgeon if the SAT is satisfied "on the balance of probabilities" that the conduct was unprofessional. The Board is not required to prove the facts in the SAT "beyond a reasonable doubt".

The results of all applications in the SAT are publicly available on the SAT's website (at <http://decisions.justice.wa.gov.au/SAT/SATdcsn.nsf>). The Board also publishes the outcome of SAT proceedings in the Newsletter (without identifying the name of the veterinary surgeon in question). This is generally to educate and inform the profession about the relevant professional standards.

The questionnaire refers to two specific cases. The Board considers that the circulated questionnaire does not accurately summarise those two cases.



## CASE 1- AGGRESSIVE ROTTWEILER

In the first case that was cited in the questionnaire (described as “the aggressive Rottweiler case”), a male Rottweiler was presented to a veterinary surgeon for semen collection. The owner alleged that the semen that was to be collected would be sold to the owner of a recipient Rottweiler bitch.

The owner complained to the Board that the veterinary surgeon refused to treat the dog and asked the owner to leave with his dog after the dog growled at the veterinary surgeon. The owner also alleged that the veterinary surgeon contacted the recipient bitch’s owner and told her that the male dog was of unsound temperament and should not be bred from.

The owner complained that the veterinary surgeon could not have properly assessed the dog’s temperament in the time that he was in the consulting room.

To investigate the complaint, and according to its ordinary process, the Board wrote to the veterinary surgeon informing him of the owner’s complaint against him, providing a summary of the alleged facts and requesting that he provide his version of events as to what occurred. In response the Board received a facsimile on behalf of the veterinary surgeon claiming that the complaint was “frivolous, vexatious and groundless” and that the only purpose of the Board’s letter was to “harass, intimidate and persecute” the veterinary surgeon. This did not address the substance of what the Board had asked from the veterinary surgeon.

The Board wrote again requesting that the veterinary surgeon provide a response within two weeks.

That deadline passed without any further response and seven weeks after its initial request for information, the Board exercised its statutory powers and issued a warrant to obtain the clinical records for the case so the complaint could be progressed. The Board inspector executing the warrant discretely asked to see the veterinary surgeon in private before disclosing the nature of his visit. The claim in the questionnaire that the warrant was served at the front reception desk in full view of staff and clients creating “maximum embarrassment” is completely untrue.

The questionnaire also wrongly contends that the warrant was executed after the veterinary surgeon provided a response to the Board.

The Board does not consider that a letter asserting that the complaint is frivolous is a response to the Board’s request. A short time after the warrant was served the veterinary surgeon provided a response to the Board which was considered at the next Board meeting along with the owner’s complaint. The Board determined that the veterinary surgeon had not behaved unprofessionally and the case was closed.



What is clear in this case is that if the veterinary surgeon had responded to the Board’s requests there would have been no need for the Board to issue a warrant and if the veterinary surgeon had responded within the Board’s originally requested timeframe and given the information that he ultimately provided, the matter would have been dealt with more quickly.

In this case the Board only used a warrant after the veterinary surgeon failed to provide his version of events as to what occurred despite two requests from the Board.

### **PREMISE REGISTRATION RENEWALS NOW DUE**

For the majority of veterinary hospitals and clinics, registration will run out on 30 June 2013.

If you wish to register your premise for the next three years you must fill out a renewal form and pay the prescribed fee by 30 June 2013.

If you have any queries please contact the office on 9317 2353.



## CASE 2- CAESAREAN SURGERY

The basis on which this case was resolved can be seen on the SAT website. The result was that the veterinary surgeon was reprimanded and ordered to pay \$30,000 towards the Board's costs.

The Board started SAT proceedings on 30 September 2011 after it had investigated the complaint and determined that the veterinary surgeon in question failed on 11 May 2010 to detect the presence of a puppy in utero (the Fourth Puppy) when he made checks after a caesarean operation had been performed and that the conduct was unprofessional. The Board asked for an order that the veterinary surgeon be reprimanded and fined \$1,000.

Immediately after the SAT proceedings were lodged the Board, as is its almost invariable practice, offered the veterinary surgeon the opportunity to refer the matter to mediation. The veterinary surgeon refused that opportunity. Instead, he claimed that the Board had to produce DNA evidence to prove that the Fourth Puppy was left behind in the bitch on which the caesarean was performed.

The circulated questionnaire wrongly asserts that the Board wasted time trying to prove that the Fourth Puppy had been born alive. The Board did not allege or try to prove that the Fourth Puppy was born alive; the original allegation and the fact that the veterinary surgeon ultimately agreed to was that (the bitch) "Krystal gave birth to a fully formed dead puppy on or about 16 May 2010".

The questionnaire also states that all the placentas were removed by the veterinary surgeon as if this was proven and is a compelling argument. This is not the case as there is only evidence that a number of placentas were removed, not that all were removed.

DNA testing proved the parentage of the Fourth Puppy.

A mediation of the complaint was held after the DNA evidence was provided to the veterinary surgeon but the mediation did not resolve the complaint. The SAT made orders to prepare the matter for a formal tribunal hearing. The Board incurred substantial costs preparing for the hearing, including obtaining statements from three witnesses, expert evidence from an experienced veterinary surgeon and compiling the documents that the Board would rely on at the hearing.

The veterinary surgeon was given a copy of all of this material in late July.

In late November 2012, just before the veterinary surgeon had to provide his evidence and expert report, the veterinary surgeon agreed that his colleague performed a caesarean on 11 May 2010 and that he "was responsible for the task of checking that all puppies had been removed from [the bitch, named] Krystal before [his colleague] closed the uterus and abdominal wall", that he "checked Krystal's uterus twice but did not find any puppies in Krystal's uterus", that the bitch "gave birth to a fully formed puppy on or about 16 May 2010 (the Fourth Puppy)" and that when the owner "found the Fourth Puppy on 16 May 2010 it was dead".

The veterinary surgeon finally agreed to orders to resolve the complaint on the basis that the professional standard was as the Board had stated and that the veterinary surgeon be reprimanded and pay \$30,000 towards the Board's costs.





The delay in the veterinary surgeon reaching that agreement significantly increased the Board's costs and resulted in a much larger costs order against the veterinary surgeon than would have been the case if that agreement had been reached earlier. Whilst it is true that the Board did not recover all of its costs, the assertion in the questionnaire about the amount that the Board spent on the case is false.

The Board's costs are inevitably increased if the veterinary surgeon does not accept overwhelming and conclusive evidence presented by the Board and that was clearly the position in this case.

This contrasts with a different case against a veterinary surgeon which was considered at the SAT two years earlier. In this case, the veterinary surgeon speyed a bitch when he only had specific consent from the owner to perform a caesarean. This complaint was finalised at mediation within two months of the Board lodging the complaint at the SAT. The veterinary surgeon received a reprimand and was ordered to pay \$1,500 in costs to the Board.

Despite the Board's attempts to do so, it was not possible for the caesarean surgery case to be resolved as amicably and quickly as this case. It resulted in far more distress and cost to the veterinary surgeon than would have occurred if the veterinary surgeon had accepted the DNA evidence (and the conclusions that flow from it) earlier than he did.

An important aspect highlighted by this case is that the cost and stress involved in resolving complaints is much greater for veterinary surgeons who adopt a "you prove it" approach to the Board and aggressively demonise the Board and the complainant.

By contrast, those veterinary surgeons who co-operate with the Board's investigation, are open to the possibility that their conduct may not have been to the standard that they ordinarily meet and who show professional insight, are generally able to address the issues in the complaint with much less stress and cost and the complaint is resolved much earlier.

## RABBIT COMPLAINT

This complaint was in relation to a veterinary surgeon who treated a rabbit with a presenting problem of pink coloured urine. The rabbit was treated with non steroidal, anti-inflammatories (NSAID). Subsequently the rabbit was tested and treated for a high level of yeast in the faeces and abdominal "bloating" on five occasions with antibiotics.

After a lack of response to this treatment the veterinary surgeon performed an exploratory laparotomy.

The Board alleged to the SAT that the veterinary surgeon was guilty of unprofessional conduct:

- As they ought to have informed, but failed to inform the owner during the initial consultation, that pink urine could be normal in rabbits;
- As they ought to have known that the continued pursuit of faecal analyses for detection of yeast levels was unnecessary and the use of faecal yeast as an indicator for the presence of gram negative bacteria was unfounded;
- As they ought to have known that the use of NSAID Metacam and the antibiotics Bactrim and Flagyl was unlikely to have any significant effect on yeast levels in rabbit faeces and in circumstances where a bacterial infection of the bowel had not been confirmed by any recognised laboratory tests;
- In performing the surgery on the rabbit in circumstances where there was no clinical justification for doing so and when other less invasive diagnostic options had not been used, or had not been adequately assessed; and
- Failing during the surgery to perform clinically indicated biopsies and tests but instead performed a caecal biopsy when there was no clinical justification for doing so and knew or ought to have known, the significant risks of complications associated with the procedure.

At the SAT during mediation the veterinary surgeon agreed that their conduct in the care, and the management of the rabbit warranted a finding that they were guilty of unprofessional conduct as a veterinary surgeon.

The veterinary surgeon agreed to the following sanctions:

1. Be reprimanded pursuant to section 23(2aa)(a) of the Act;
2. Pay a fine of \$1,000; and
3. Pay the Board's costs in the sum of \$750.





## DISPENSING OF MEDICINES FOR BACK YARD LAYING HENS

The Board has received the following article from a veterinary surgeon, Dr Kevin Cleasby wishing to alert his colleagues to some of the pitfalls in prescribing medications to backyard laying hens. The opinions expressed are not necessarily those of the Board.

I recently spoke to a client whose chicken had been seen at another hospital and was given Enrofloxacin and the (verbal) instructions “you should be able to eat the eggs in about 4 or 5 weeks’ time.”

Many veterinary surgeons appear to be unaware of protocols relating to the dispensing of medicines in back yard laying hens. The eggs these hens produce are food intended for human consumption and as such, there are regulations pertaining to any medicines they are given.

I have spoken to the APVMA and Department of Agriculture and Food WA regarding this as I had experienced problems relating to withholding periods with a client that came to my clinic, and the following Regulations were brought to my attention as being applicable to back yard laying hens. So should a client bring in a chicken where it is established the hen is a layer, the following regulations apply:

Veterinary Chemical Control and Animal Feedstuffs Regulations 2006

R10. Statement to be given by veterinary surgeon

(1) This regulation applies to a veterinary surgeon who prescribes or supplies or recommends for use, on a trade species animal under the care of the veterinary surgeon, either of the following -

(a) a registered veterinary chemical product to be used other than in a way stated in the instructions on the approved label for containers for the products;

(b) an unregistered veterinary chemical product.

(2) The veterinary surgeon must give to the person for or to whom the veterinary chemical product is prescribed, supplied or recommended a written statement as to -

(a) The species of animal to be dealt with; and

(b) the amount of the product supplied; and

(c) the dosage; and



(d) the frequency of the dosage; and

(e) the treatment period; and

(f) the manner of administration; and

(g) whether or not there is a withholding period applicable to the administration of the product and, if there is, the length of that period; and

(h) the location and identification (if any) of the particular animal dealt with or to be dealt with; and

(i) details to identify the particular animal dealt with or to be dealt with; and

(j) the name of the person for or to whom the veterinary chemical product is prescribed, supplied or recommended; and

(k) the name and address of the owner of the animal dealt with or to be dealt with,

Penalty; a fine of \$5 000.

R11. Production of statements

(1) An inspector may -

(a) require a veterinary surgeon to produce for



inspection a statement given by the veterinary surgeon under regulation 10; and

(b) inspect and take copies of the statement.

(2) A veterinary surgeon must comply with a requirement under subregulation (1)(a).

Penalty; a fine of \$1 000.

The use of Enrofloxacin is an example of an off label use. It is not enough to pluck a figure out of the air and use it as a withholding period. There should be supporting evidence as to how a withholding period is arrived at. There are very few medications that are approved for use in laying hens, so you should always be cautious about using them, as a verbal suggestion of when the eggs can be eaten can easily be counterclaimed by the client as "I wasn't told anything like that" and then it is up to you to prove otherwise.

In addition, I now (personally speaking) require clients that designate their birds as non-food producing, to sign a declaration to that effect, in which case, the above Regulations no longer apply. I am submitting this to help inform my colleagues, so that they can avoid any trouble when dealing with back yard laying hens.

Dr Kevin Cleasby

## AVA NATIONAL WORKFORCE SURVEY

The Australian Veterinary Association Ltd (AVA) is undertaking a second annual workforce survey and is inviting all registered veterinary surgeons to participate.

The purpose of the annual survey is to examine the current profile of the veterinary profession and anticipate future trends and changes. The information will help the profession, government, veterinary boards and others to understand how the provision of veterinary services may be affected by various factors, including increasing numbers of veterinary graduates, career breaks, part-time working, early retirement and veterinarians choosing to work outside the profession.

The survey is at <http://ava.informz.net/survistapro/s.asp?id=2134>

Responses from veterinary surgeons will go directly to the website and contents and respondents will be individually untraceable. Should you have any questions please contact the AVA on 02 6273 0064.

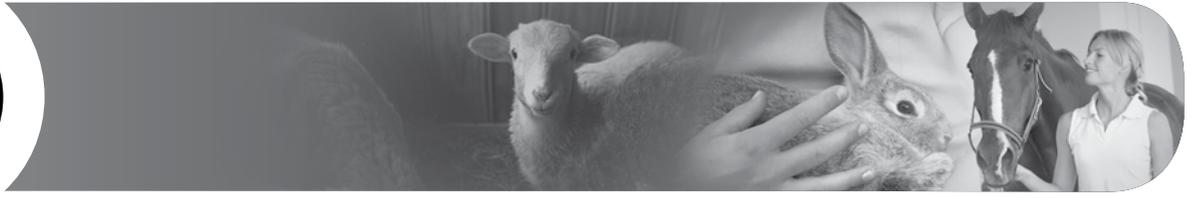
## BOARD STRATEGIC PLAN

The Board is currently working on a strategic plan for the next three years. The plan will define future strategies for achieving the Board's primary purpose which is to effectively regulate, in the public interest, the practise of veterinary surgery in Western Australia.



On 7 March 2013, Board members and deputies met for a planning day as part of the strategic planning process.





## RADIATION SAFETY IN VETERINARY PRACTICES - INVITATION TO PARTICIPATE IN RESEARCH

All registered veterinary surgeons and approved veterinary nurses are invited to participate in a research study related to Radiation Safety in West Australian Veterinary Practices, by completing an on-line survey.

This research study is being conducted by a group of Curtin University Medical Imaging Science students. The aim of this research is to evaluate current radiation exposure and protection practices in veterinary clinics in Western Australia.

The survey will take around 10 minutes to complete, and the Medical Imaging students are hoping for as many people as possible to complete their survey.

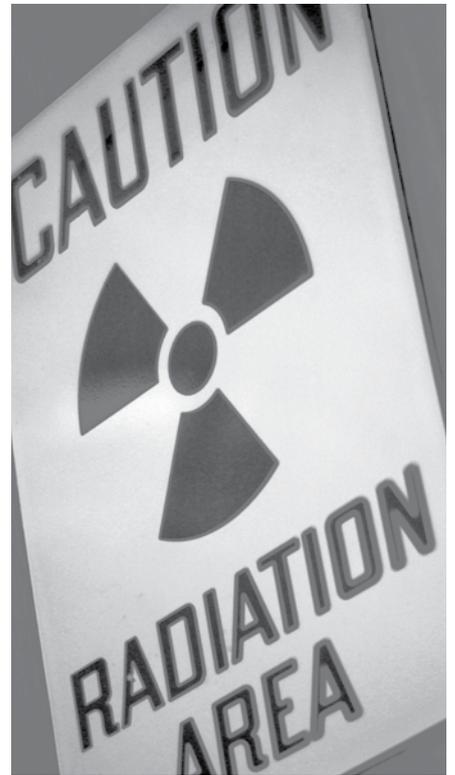
An information sheet explaining the research project in more detail is available on request.

Should you wish to participate in their research project, the following link will take you to the online survey.

**[www.surveymonkey.com/s/vet-survey-2013](http://www.surveymonkey.com/s/vet-survey-2013)**

If you have any questions please contact:

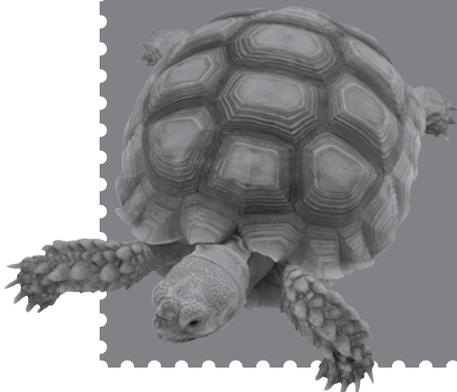
Sara-Jane Laurenson  
Group Research Project Leader  
4th Year Medical Imaging Student  
[sara-jane.laurenson@student.curtin.edu.au](mailto:sara-jane.laurenson@student.curtin.edu.au)



### THE VETERINARY SURGEONS' BOARD OF WA

#### MEMBERS OF THE BOARD

**Chair: Dr P Punch** AVA Nominee  
**Dr T Higgs** Dept of Agriculture and Food  
**Dr M Culliver** Elected Member  
**Dr R Stone** Elected Member  
**Ms F Galley** Ministerial Appointment



### HOW TO CONTACT US

**Registrar:** Dr Sue Godkin

**Postal Address:** PO Box 1721 Melville South WA 6156

**Office:** Suite 1, First Floor, Melville Professional Centre,  
275 Marmion Street, Melville WA 6156

**Telephone:** (08) 9317 2353 **Facsimile:** (08) 9317 2363

**Email:** [admin@vsbwa.org.au](mailto:admin@vsbwa.org.au) **Web:** [www.vsbwa.org.au](http://www.vsbwa.org.au)

