

A REVIEW
OF
THE COMPLAINTS PROCESS
OF
THE SASKATCHEWAN VETERINARY
MEDICAL ASSOCIATION

DECEMBER 2020

INTRODUCTION

As the regulator of veterinarians and veterinary technologists in the province of Saskatchewan, it is incumbent upon the Saskatchewan Veterinary Medical Association (SVMA) to demonstrate the broadly held principles of effective regulation: fairness, transparency, expediency, focus on public protection, consistency, and proportionality. These principles apply to the SVMA's execution of the portions of *The Veterinarians Act, 1987* and portions of the SVMA Bylaws that are related to complaints and discipline.

This report describes a review of the SVMA Complaints Process against the Standards of Good Regulation identified and employed by the Professional Standards Authority (PSA) in its review of the Saskatchewan Registered Nurses Association's (SRNA) current complaints, investigations, and discipline processes¹. The PSA Standards were adeptly summarized and distilled into a "Complaints Process Checklist" by Erica Richler, Partner, Steinecke Maciura LeBlanc, a law firm specializing in the field of professional regulation². This checklist informed the framework from which this review of the SVMA's complaints process as the regulator of Veterinarians and Veterinary Technologists in Saskatchewan was undertaken. This review was intended to identify both areas where the SVMA is performing well and opportunities for improvement in the complaints and discipline process.

This review was structured to answer a multitude of questions, the sum of which were intended to provide insight into the assessment of the SVMA's complaints process through a lens of best practices in regulation: are the SVMA's complaints processes **transparent, fair, proportionate, consistent, expeditious, and focused on public protection**? What are the areas of commendable practice and where are the opportunities for improvement?

In the application of the "Complaints Process Checklist" formulated by Erica Richler to our review of the SVMA Complaints process the following questions were posed:

1. Is the SVMA's complaints process **accessible**?
2. Are serious complaints **prioritized**?
3. Are complaints **appropriately investigated**?
4. Are complaints dealt with in an **expeditious** manner?
5. Does the regulator provide the parties to a complaint with **regular updates** on the progress of a complaint? Do complainants receive updates as frequently as members? Are all parties to a complaint treated in the same manner by the regulator?
6. Does the regulator provide **appropriate and reasoned decisions**?
7. Are final discipline **decisions published** as permitted by the enabling legislation?
8. Is **aggregate, anonymized information** regarding the complaint process gathered, analyzed, and shared?
9. Is information about complaints **securely retained**?

¹ "A review conducted for the Saskatchewan Registered Nurses Association", Professional Standards Authority, May 2019.

² "Complaints Process Checklist", Grey Areas, June 2019, No. 237, Erica Richler.

The sources of information and evidence for this review included the legislative framework in which the SVMA operates; SVMA policies, guidelines and documentation relevant to the SVMA complaints process; a sample of 15 complaint files selected from all complaint files opened after January 1, 2017 and closed before January 1, 2020; interviews with SVMA staff who manage complaints intake, investigations and support the work of the PCC; interviews with the SVMA Registrar, the SVMA President of Council, members of Professional Conduct and Discipline Committees, and SVMA legal counsel; agendas and notes from 2019 PCC meetings; agendas and minutes from 2019 Council meetings; 2019 PCC reports to Council; a sample of complaint files for which Council approved an extension of the date on which the PCC must submit its report to the DC; attendance at 2 meetings of the PCC, a cost hearing of the Discipline Committee, and 2 meetings of the SVMA Council.

The data collection and drafting of the report for this review took place in 2020. Data collection and an on-site visit occurred in the early part of the year prior to travel restrictions introduced by the COVID-19 Pandemic. Interviews were conducted with SVMA staff who manage complaints intake, investigations and support the work of the PCC, the SVMA Registrar, the SVMA President of Council, some members of the Professional Conduct Committee and the Discipline Committee. Online Council and Professional Conduct Committee meetings were attended remotely. We thank all the individuals who were willing to provide us with their time and insights. We are particularly grateful to the staff of the SVMA, particularly Dr. Marc Cattet, for their gracious, unfailing willingness to answer our questions and provide us with the information that we used to complete this review.

SUMMARY OF RECOMMENDATIONS

COMPLAINT PROCESS ACCESSIBILITY

1. Move the COMPLAINTS PROCESS page to a separate tab **"COMPLAINTS AND DISCIPLINE"** on the SVMA Website.
2. Add a **"NEED HELP?"** button or paragraph on the COMPLAINTS PROCESS page that indicates how individuals who need assistance in filing a complaint can contact the SVMA and the name(s) and contact information of SVMA staff members who can provide that assistance.
3. Restructure information on the COMPLAINTS PROCESS page to bring the information on 'HOW TO FILE A COMPLAINT' to the top of the page. Considering providing an infographic representation of the complaints process that clearly depicts the steps in the complaints process: inquiry regarding complaint, receipt of the complaint, alternative dispute resolution, investigation, PCC review, PCC decision. An example of such an infographic published by the College of Optometrists of Ontario is provided. The complete infographic may be found online [here](#).
4. Accessibility of information requires that the information is not only available but is understandable. The information on the COMPLAINTS PROCESS page, while comprehensive, is not organized in a matter that fosters an understanding of the complaints process. Revision of this information to provide a clear, concise description of the "lifecycle" of a complaint and the dispositions of complaints that the PCC has available to it will increase accessibility of complaints process information. An info graphic as noted above in (3) would be useful in this regard.
5. The PCC frequently refers to its mandate in the complaints process as determining whether a member was in contravention of *The Veterinarians Act, 1987* or the SVMA Bylaws. While accurate, there is not enough explanatory information in this statement to inform a complainant of what elements in either *The Veterinarians Act, 1987* or the SVMA Bylaws, the PCC uses in determining whether a member's behaviour contravenes either of these regulatory instruments. The same can be noted for use of the terms "professional misconduct" or "incompetence". Itemizing or summarizing those elements outlined in Paragraph 15.2 of the SVMA Bylaws will support the principles of accessibility and transparency of some of the PCC's decision-making process.
6. It is not entirely clear from the information presented on the Complaints Process page that this is the same process that is followed by an individual wishing to file a complaint concerning a Registered Veterinary Technologist. Clarification of the SVMA's role in in this regard will add clarity and accuracy to the information provided on the Complaints Process page.

7. In conjunction with direction from College legal counsel, consider the articulation of policy or procedure documents that speak to: a) how the regulator can initiate a complaint, b) how the regulator can initiate a complaint against a former member, c) the process by which the regulator approaches unauthorized practice and complaints filed with the regulator regarding non-members.

8. That the PCC develop a process document or template that articulates those elements identified as examples of professional misconduct or professional incompetence in the SVMA Bylaws Section 15.2 and Sections 24 and 24.1 of *The Veterinarians Act, 1987*. This document would be used to catalogue the allegations in the original complaint.

9. We recommend that, in collaboration with legal counsel, the SVMA develop a policy on how additional matters that arise during an investigation should be addressed and managed. Such a policy would ensure that public protection is maintained, and all concerns are appropriately addressed.

10. The SVMA, in its role of regulator, look for additional resources and messaging opportunities to educate the public, members of the professions, and employers regarding their ability to raise concerns regarding SVMA members.

PRIORITIZATION OF SERIOUS COMPLAINTS

11. That the SVMA develop a formalized risk assessment process or matrix that is applied to every complaint that it receives. An example of such a matrix for consideration is provided (Appendix 2).

APPROPRIATE COMPLAINT INVESTIGATION

12. Establish a comprehensive onboarding process for new members of the PCC. This onboarding process could include face-to-face or online presentation to new members regarding the PCC processes. A current PCC process manual could be used in this onboarding process.

13. Establish a formal mentoring program where new members of the PCC are paired with more seasoned members of the PCC. This need not necessarily be a defined investigatory team but rather a structured relationship that provides newer members of the PCC with an individual who can act as a resource when questions arise.

14. Engage in PCC specific training on an annual or semi-annual basis.

15. Develop a formalized risk assessment process or matrix that is applied to every complaint that it receives. An example of such a matrix for consideration is provided in Appendix A.
16. Written policies or procedures be written or existing documents be updated:
- a. Fair, impartial, and appropriate investigation of matters.
 - b. The criteria or decision-making framework to be applied to review the adequacy of an investigation before the outcome is deliberated.
 - c. The criteria to be applied at each stage of the PCC's decision-making process, including, for each available outcome, guidance on what factors should be considered for a particular outcome. This would include a very clear consideration of when an ADR-mandated remediation is indicated (see 6 below)
 - d. Identification of a quality control system that allows the SVMA to identify inconsistencies in an investigation or outcomes for complaint matters?
17. Consider relieving some of the investigatory burden on PCC members by:
- a. Developing a policy or procedure for identifying those complaints that will require the appointment of an external investigator
 - b. Examining the current PCC member-lead investigations to see what elements of the process could be carried out by SVMA staff
 - c. Consider expanding the SVMA staff complement (a part-time appointment might suffice) to include an individual whose effort is dedicated to the activities of the PCC and DC. The right individual could, with proper training, also serve as investigator for the SVMA.
18. While the PCC is executing its mandated responsibilities to investigate alleged professional misconduct or incompetence as defined in *The Veterinarians Act, 1987* and the SVMA Bylaws, there may be missed opportunities to assist members whose practice has suffered from a competency drift but not to the degree that pushes their practice into the realm of professional misconduct or incompetence. Assisting members in continuing competence by providing continuing education activities is a responsibility well met by the SVMA but there may be members who would benefit from specific, targeted remediation. In complaints management for many regulators, this targeted remediation can be ordered by the Complaint Screening Committee, most commonly in the form of a Specified Continuing Education and Remediation Program. In its current regulatory framework, the SVMA PCC has access to requiring members to engage in remediation efforts is available when a complaint matter is directed toward the ADR process. We recommend that the availability of this route be at front of mind for matters that are not referred to the DC for a hearing and that the PCC use this outcome as a means of supporting continuing competence of veterinarians and veterinary technologists throughout their careers before their practice drift is of a magnitude that requires referral to the Discipline Committee.
19. The SVMA continue to recruit members of the public as members of the PCC. The PCC Terms of Reference will need to be updated to reflect this change in PCC composition.

EXPEDIENCY

20. Develop a detailed process map for complaints from the point of intake to disposition that identifies process benchmarks and provides for the identification of areas for the improvement of complaint management expediency.

21. Identify the contributing factors and strategies for resolutions of the current backlog of 2020 complaints.

22. As the number of received complaints have risen over the past two years (even during a protracted pandemic) the SVMA Council should consider areas in the complaint management process where it can augment its existing resources. As in our recommendation 6 (c) in Part 3 above, we strongly recommend that the SVMA strongly consider adding human resources to the complaint management process. This will be particularly important and necessary since there is an impending change in Registrars. Additional staff resources for complaint management could assist with complaint intake, notifications, and communications with the parties to a complaint, gathering evidence, interviewing, and drafting decisions. In the absence of additional full or part-time staff, the SVMA could consider contracting out more (or all) of its investigation work as well as its decision writing.

FAIRNESS & TRANSPARENCY

23. In the interest of fairness and transparency of process, the SVMA should communicate clear timelines for the disposition of a complaint matter to all parties to a complaint. These timelines should also be included in general information about the complaints process on the SVMA website.

24. Standardized notification letters that are used to provide updates on the progress of a complaint should be sent to both parties if an extension to the 150-day reporting deadline has been sought by the PCC and granted by Council. The parties should be notified of when the new reporting deadline will be.

25. A standard, structured decision letter should be provided to both parties. These letters should contain identical content.

26. Confidentiality concerns notwithstanding, the case summary authored by the PCC and forwarded to the DC may serve as the basis for a case summary that could be provided the parties of a complaint.

APPROPRIATE, REASONED DECISIONS

27. To the extent that past and pending decisions in respect of a member under consideration by the PCC can identify trends or patterns in professional behaviour that may require more serious attention than a single occurrence of the same behaviour and given that the PCC may “investigate complaints by taking any actions it considers necessary” (Section 15.5 (a) SVMA Bylaws), we recommend that the PCC consider including a review of past and pending decisions in respect of a member in its initial investigation. Discovery of trends could suggest a complaint outcome that involves an ADR mediated solution designed to correct a concerning trend in a member’s professional behaviour. Review of past and pending decisions in consideration of matters in professional conduct is not uncommon and in some jurisdictions is mandated by the enabling legislation of a regulatory body.

28. In our audit, we observed some decision letters sent to complainants that described the PCC’s investigative choices and process very clearly. In many cases, the PCC also attempted to provide the complainant with further information regarding the medical aspects of what was believed to have occurred. This information is useful.

In all decision letters there is an opportunity to provide the complainant with further information regarding the details in the analytical process of the PCC as it turned its attention to whether the matter at hand included indications of professional misconduct or professional incompetence. To only offer a broad statement that the PCC did not feel that the facts of the case supported a concern of professional misconduct or incompetence does not credit the Committee with the analytical process that it undertakes in these matters nor does it support the organizational value of transparency that regulators currently embrace. Consequently, we recommend a more detailed explanation of the PCC’s thinking specifically as it relates to the presence or absence of the attributes of professional misconduct or incompetence as expressed in the Committee’s decision letters. An algorithmic approach to the deliberations of the Committee on the options it has available to it in its decisions improves transparency of the Committee’s work and fosters confidence in the regulator’s management of matters related to professional conduct. In this realm, more is more.

29. The primary remit of the PCC is to determine whether a member and the associated matter should be referred to the Discipline Committee because of allegations of professional misconduct or incompetence. It is somewhat understandable then that this decision is not appealable because the PCC serves as screening committee in this regard. If it exercised greater powers in creating orders related to Specified Continuing Education or Remediation Programs in matters that were not referred to the Discipline Committee, there may be more of an interest on part of the membership for an appeal process centered on these decisions. As it stands, the member is the only party to a complaint that has a right to appeal anywhere in the complaint and discipline process, albeit at the end of the Discipline process where a member feels they are aggrieved by a decision of the Discipline Committee.

Accountability of a regulator to the public in whose interest it operates includes, quite reasonably, the right to an appeal of decisions made by the regulator. The SVMA PCC has a great deal of latitude in how it carries out its business and may “regulate its own business and manners of proceeding” (Section 15.5 (b) SVMA Bylaws). Consequently, absent a specific requirement for a process of appeal of the PCC decisions, the SVMA should consider creating an ad-hoc Appeals Committee that hears appeals of decisions made by the regulator.

PUBLICATION OF DECISIONS

30. Create a separate tab **“COMPLAINTS AND DISCIPLINE”** located on the SVMA website homepage. This will increase accessibility of information related to the Complaints Process as well as the educative information that may be contained within a Discipline Committee case summary.

31. To the extent that the Discipline Committee may, pursuant to SVMA Bylaw 15.6 (a), “regulate its own business and manners of proceeding”, the educational utility of Committee decisions would be greatly enhanced if the Committee elaborated on the specific pieces in the regulatory framework upon which it relied when reaching its decision. Expanding on the specific content of these pieces will serve to educate members of the profession and the public about the specific elements that are at play in the identified regulatory framework. A non-specific statement that a member of the profession was found to be in contravention of sections of the SVMA Practice Standards, SVMA bylaws, *The Veterinarians Act, 1987*, and the Narcotic Control Regulations while true, is not instructive for the intended audience of the published decisions.

DATA COLLECTION AND ANALYSIS

32. The SVMA establish a process for identifying complaint characteristics that may be useful in guiding the regulatory activity of the association. An example form that may be amended by the SVMA and used for collecting such risk assessment data is appended (Appendix 2).

33. Trends identified in this data may be used by the SVMA to direct Continuing Education efforts, where appropriate and necessary.

34. The SVMA conduct experience follow-up surveys with both complainants and members as a means of gathering feedback on the SVMA’s complaints process. Such electronic survey tools are readily available. The aggregate data can serve to provide the PCC and SVMA Council and staff with feedback on the complaint process through the eyes of both the public and SVMA members.

SECURE INFORMATION STORAGE

There is credible risk to transparency and consistency of College operation related to complaint management when operational memory rests with the personal memory of the Registrar at that time. Organizational operations and security would be well served if the following items were developed, implemented, and maintained:

- 35. a policy regarding handling of mail (physical and electronic) related to complaint matters
- 36. a policy regarding physical file security and protection
- 37. a policy or standard operating procedure describing the organization of the complaint files
- 38. a policy or standard operating procedure describing the granting and revocation of digital file permissions for members of the PCC and the DC.
- 39. an evidence log that tracks the chain of custody of evidence related to a matter
- 40. a policy regarding the privacy of information contained in matter materials that includes an identified approach to any breach of such policies, procedures, or code