

Second Reading

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [8.15 p.m.], on behalf of the Hon. Tony Kelly: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The Veterinary Practice Amendment Bill 2010 makes changes to the Veterinary Practice Act 2003 in three important areas.

The bill will:

- strengthen the complaint provisions in the Act; and
- give the Veterinary Practice Board a greater range of powers to deal with veterinarians who are not meeting, or who are unable to meet, their professional obligations.

The majority of these amendments arose out of a statutory review of the Veterinary Practice Act 2003 conducted in 2009.

The Veterinary Practice Act 2003 regulates the provision of veterinary services in New South Wales. The Act establishes the Veterinary Practitioners Board, which is responsible for ensuring veterinarians provide a high standard of care to the animals they treat. Specifically, the board is responsible for licensing veterinarians and veterinary hospitals. It also administers the professional standards and disciplinary regimes which apply to veterinarians.

New South Wales has the highest number of veterinary businesses in Australia, accounting for around 30 per cent, followed closely by Victoria (24 per cent) and Queensland (22 per cent). Fifty per cent of all veterinary practices are located in capital cities.

This is a useful bill when you consider that Australia has one of the highest rates of pet ownership in the world. Throughout Australia there are over 33 million pets of various species; this includes dogs, cats, birds, fish, horses, rabbits, guinea pigs and other small mammals. At some stage these animals and their owners will require the services of a veterinarian.

Add to this the numbers of stock animals such as sheep and cattle which also require veterinarian services and it will be of no surprise when I tell you that this year the veterinary services industry employs over 20,000 people and is expected to generate revenue of just over \$2 billion into the Australian economy.

I turn now to the amendments in the bill.

The bill makes important amendments to the complaints and disciplinary provisions in the Act.

Veterinarians, like the rest of society and other working professionals, are not immune from alcohol and drug misuse and medical conditions such as depression. The Doctors Health Advisory Service is a telephone helpline providing confidential advice to doctors, dentists and veterinarians facing stress and mental illness, drug and alcohol problems, or personal and financial difficulties. Last financial year, 21 veterinarians called this helpline, with 11 of these calls relating to drug use and depression.

Over the past four years, the Veterinary Practice Board has received a number of complaints alleging that the performance of a veterinarian was affected by drug or alcohol misuse or other medical conditions. Currently, the board is unable to take specific action in relation to these kinds of complaints. This potentially compromises a veterinarian's ability to effectively exercise his or her professional responsibilities.

The amendments will give the board the power to direct a veterinarian, who is the subject of a complaint, to have a medical examination. If a veterinarian refuses to have a medical examination without reasonable cause, they will be considered unfit to practise.

Currently there is no time limit in the Act for making a complaint about a veterinarian. It is difficult for the board to investigate incidents more than three years after they occur because records of consultations, procedures and treatment only have to be retained for three years.

To ensure that records will be available to the board and all parties during the investigation of a complaint, the bill introduces a three-year time limit for making a complaint. This will result in a fairer outcome for all parties involved in the complaints process.

Importantly, the board will retain a discretion to accept complaints outside this time period if it considers it just and fair, in the circumstances, to investigate the complaint.

The bill also introduces a protection for any person who makes a complaint to the board, in good faith, against a veterinarian. This provision is designed to encourage members of the public, other veterinarians and staff who work

with veterinarians to report legitimate concerns they have about the conduct of a veterinarian.

During the investigation of a complaint, the board may ask a person to answer questions or produce documents. A person can currently refuse to cooperate with the board on the basis that it might expose them to a civil penalty or criminal proceedings. This would obviously impede an investigation.

The bill will make it mandatory for a person who is being questioned or is required to produce documents to answer the questions or produce the documents. To compensate for this, the Act will be amended to provide a protection against self-incrimination in these circumstances.

This will encourage an honest, open and frank complaints investigation process. In addition, this amendment will bring the Veterinary Practice Act into line with the Health Care Complaints Act 1993 and the Health Practitioner Regulation National Law (New South Wales), which commenced on 1 July 2010 and regulates 10 health professions.

If the Veterinary Practitioners Board is satisfied that a veterinarian is guilty of professional misconduct it must currently apply to the Administrative Decisions Tribunal for a disciplinary finding. The tribunal will then consider the matter and take appropriate action against the veterinarian.

There are, however, cases where the level of professional misconduct is of a less serious nature and will not result in the suspension or cancellation of the veterinarian's registration, for example, in the case of inadequate record keeping or failure to provide an estimate of treatment costs. In these circumstances the board should be able to deal directly with the matter.

The bill provides the board with the power to deal directly with these less serious types of professional misconduct. This will make the process cheaper and more efficient.

The bill will also allow the board to suspend a veterinarian's registration immediately in certain limited circumstances, for example, if the board is satisfied that such action is necessary to protect the health and safety of a person or animal or to protect Australia's international reputation in relation to animal exports.

The bill introduces a new test for determining whether a veterinarian is fit to practise or not.

The concept of a veterinarian who is not fit to practise because of infirmity, injury or illness will be replaced by the broader concept of suffering from an impairment.

The bill provides that a person suffers from an impairment if he or she has a physical or mental impairment, a disability, condition or disorder which detrimentally affects their fitness to practise veterinary science.

Any conduct by a veterinarian demonstrating that he or she is not fit to practise because of an impairment will constitute unsatisfactory professional conduct. As an additional measure, the bill will allow the board to refuse the registration of a veterinarian or impose conditions on registration if the board considers the veterinarian is not fit to practise because the veterinarian suffers from an impairment.

The bill also makes changes in relation to continuing professional development.

Maintenance and enhancement of professional skills and knowledge by veterinarians is important for ensuring the health and welfare of animals.

Continuing professional development is expected of all registered veterinarians throughout Australia. All jurisdictions have agreed, through the Australasian Veterinary Boards Council and the Australian Veterinary Association, that veterinarians must complete a minimum number of hours of professional education over a consecutive three-year period.

To ensure that veterinarians comply with this expectation, the bill makes it mandatory for veterinarians to undertake continuing professional development as determined by the board.

Failure to comply with the board's requirements, without a reasonable excuse, will constitute unsatisfactory professional conduct. In these circumstances the board can impose a fine and/or conditions on a veterinarian's registration.

To ensure that veterinarians are not adversely affected by the business decisions of their employers, the bill extends the prohibition against an employer directing a veterinarian to engage in unethical or unprofessional conduct to all employers of veterinarians. The prohibition currently only applies to employers whose principal business is the supply of goods or materials used in connection with agriculture.

I move now to the issue of incorporated veterinary practices. The Act currently only allows a corporation to carry on the business of a veterinary practice if the controlling interest is held by one or more registered veterinarians.

The bill that was introduced into the Legislative Assembly proposed to amend the definition of "controlling interest" to accommodate a more flexible approach to corporate ownership.

The Australian Veterinary Association subsequently raised concerns about the changes to the corporate ownership provisions contained in the bill. In view of this objection, it was not considered appropriate to proceed with the proposed amendments without further consultation.

Therefore, a Government amendment was passed in the Legislative Assembly to remove item [2] from the bill.

As I have already said, most of the amendments in this bill arose out of a statutory review in 2009. The review highlighted a number of issues with the operation of the Act.

The Department of Industry and Investment NSW worked closely with the Veterinary Practitioners Board during the statutory review process.

In addition, the recommendations in the review report were subject to consultation with registered veterinarians and a number of stakeholder organisations including the Animal Welfare League of New South Wales, the New South Wales RSPCA, the Australian Veterinary Association, and the NSW Farmers' Association. In addition, the veterinary science faculties at Charles Sturt and Sydney Universities were also consulted.

Given the board has significant responsibilities in relation to the administration of the Act, it was closely involved in the drafting of the bill.

This bill proposes amendments to the Veterinary Practice Act which are aimed at ensuring veterinarians maintain high standards of care and service. They are sensible amendments which will deliver benefits to veterinarians, the animals they care for and their owners.

I commend the bill to the House.