



## AGENDA ITEM 7.4

**TOPIC: Regulatory Exemption for Non-Members – Owners and Custodians  
under the *Provincial Animal Welfare Services Act, 2019***

### Overview

#### *Introduction*

Transition Council has previously reviewed and approved several proposed regulatory exemptions for non-members for submission to the Ontario Ministry of Agriculture, Food, and Agribusiness (OMAFRA). This includes proposed regulatory exemptions related to pharmacy professionals, animal rehabilitation, farriers and hoof trimmers, and mass culls.

During the public consultation on these proposed regulatory exemptions, the College was contacted by the Ministry of the Solicitor General (SOLGEN) related to its administration of the *Provincial Animal Welfare Services Act, 2019 (PAWS)* and the ongoing work of its Animal Welfare Services division. This resulted in a series of conversations between the College and SOLGEN related to their area of Ministerial oversight and its administration in Ontario.

Most of the topics covered during these conversations confirmed that the current structure of the *Veterinary Professionals Act, 2024 (VPA)* intersected cohesively with *PAWS* and the work of Animal Welfare Services. Further, already proposed regulatory exemptions – such as those allowing for members who are employees of the Crown to carry out authorized activities outside of accredited veterinary facilities – addressed potential concerns related to members who work as Animal Welfare Inspectors.

As these conversations progressed, one area of potential concern was raised related to the ability for Animal Welfare Services to work with non-members to provide sheltering and ongoing care of animals under its custody. This resulted in a review of the current statutory exception under the *VPA* related to the ability for non-members to carry out a veterinarian member's treatment plan based on the direction of the owner which in turn has prompted the information contained in this cover sheet for Transition Council's review and consideration.

## Legislative Framework

Section 2 of Schedule 1 of the *VPA* contains the following statutory exemption for non-members:

The administration of a treatment plan by a custodian of an animal if the treatment plan is made by a veterinarian member and carried out at the direction of the owner.

This statutory exception contains three main players:

**Custodian:** the person carrying out the veterinarian member's treatment plan.

**Veterinarian Member:** the veterinary professional required to develop the treatment plan.

**Owner:** the legal owner of the animal.

Section 93 (1) 8 of the *VPA* states that, subject to the approval of the Lieutenant Governor in Council, the Council may make regulations:

Prescribing exceptions for the purpose of Section 10 or 11 (of the *VPA*) or limiting or clarifying the exceptions set out in sections 2 and 3 of Schedule 1.

## Relevant Background Information

Conversations between the College and SOLGEN have identified a potential need to clarify the role and responsibilities that Animal Welfare Services and Animal Welfare Inspectors have over an animal(s) or group of animals when they are removed or seized in accordance with the *PAWS Act*.<sup>1</sup>

The College has confirmed with SOLGEN that there are circumstances where Animal Welfare Services takes custody of an animal(s) or group of animals that it believes has been subject to an offence under *PAWS*. When Animal Welfare Services takes custody of said animal(s), it is responsible for safeguarding the animal(s)' well-being (including providing any necessary

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<sup>1</sup> **Removal – 31(1)** - An animal welfare inspector may remove an animal from the place where it is and take possession of the animal for the purpose of relieving its distress if, (a) a veterinarian has advised the inspector in writing that relieving the animal's distress necessitates its removal; (b) the inspector has inspected the animal and has reasonable grounds for believing that, (i) the animal is in distress and the owner or custodian of the animal is not present and cannot be found promptly, or (ii) the animal is in critical distress; or (c) an order respecting the animal has been made under section 30 and the order has not been complied with. 2019, c. 13, s. 31 (1); 2023, c. 12, Sched. 6, s. 5 (1-3).

**Seizure - 44 (1)** - An animal welfare inspector who is lawfully in any place may, without a warrant, seize any animal or thing that he or she has reasonable grounds to believe, (a) has been obtained by the commission of an offence under this Act; (b) has been used in the commission of an offence under this Act; (c) will afford evidence of the commission of an offence under this Act; or (d) is intermixed with a thing referred to in clause (a), (b) or (c).

veterinary care) until it is either returned to its owner or is officially forfeited to the Crown. The length of these seizures can vary greatly from as little as a few days to as long as several years.

When an animal(s) is removed or seized, Animal Welfare Services does not become its legal owner. Instead, they become the primary custodian of the animal(s) and are solely responsible for all care decisions (though there is a process to seek cost recovery from the owner of the animal(s) for the care provided). As part of these custodial duties, Animal Welfare Services is permitted under Section 44 (3) of *PAWS*<sup>2</sup> to deliver an animal(s) to a person for safekeeping. This person does not have to be a veterinary professional and is often community and/or shelter partners that Animal Welfare Services works with, but does not directly employ, to safeguard animals. Often these animals are delivered to these partners after they have been seen by a veterinarian and are accompanied by a veterinary treatment plan for ongoing delivery of care which may include the ongoing performance of certain authorized activities such as administering substances, including drugs, by injection or inhalation.

This process would not currently be permitted to continue under the *VPA* as only members (veterinarians and veterinary technicians) are permitted to carry out authorized activities unless otherwise specifically excepted and exempted and the current statutory exemption in Section 2 of Schedule 1 would only be applicable if Animal Welfare Services was the legal owner of the animal(s) during the seizure period - which it is not.

## Proposed Regulatory Exemption

In recognition of the importance of Animal Welfare Services being able to continue to deliver these public safety focused services, Transition Council is asked to consider the following proposed regulatory exemption that clarifies that Animal Welfare Services qualifies as the owner of the animal(s) under the noted statutory exception as long as:

1. The animal(s) has been removed or seized in accordance with the *PAWS Act*;
2. The animal(s) is under the care of a custodian approved by the Chief Animal Welfare Inspector or their delegate; and
3. The custodian adheres to the treatment plan as developed by the veterinarian member (including only administering drugs that have been prescribed by the veterinarian member for the specific animal(s).)

It is important to note that this proposed exemption would only apply to third-party non-member custodians and could not be utilized by members (veterinarians and veterinary technicians).

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<sup>2</sup> **Safekeeping – 44 (3)** - An animal welfare inspector shall deliver any animal or thing that he or she seizes to a person authorized by the Chief Animal Welfare Inspector for safekeeping.

For more information on this proposed regulatory exemption, please refer to the draft concept chart attached to this cover sheet as Appendix A.

## A Note on Consultation

In considering this proposed regulatory exemption it is important to note that additional public consultation by the College on this item would not be required for the following reasons:

1. The proposed exemption pertains to another legislation framework and is designed to continue to allow existing Ministerial programs to continue to operate; and
2. The proposed exemption would be included in Transition Council's larger regulatory concept submission to OMAFA and would be included in their larger review of the material (including the completion of their own public consultation).

## Transition Council Discussion

The information contained in this cover sheet is being presented to Transition Council for its review and discussion related to next steps. To aid in this discussion, Transition Council is encouraged to consider if any further clarification or additional information is necessary prior to providing its direction.

## Potential Direction

Based on this review and discussion, Transition Council may direct:

1. That the proposed regulatory exemption be approved for submission to OMAFA as presented or amended;
2. That the proposed regulatory exemption be returned to College staff for further work and consideration; or
3. Any other direction as determined by Transition Council.

## Attachments

1. Appendix A – Concept Chart – Owners and Custodians under the *Provincial Animal Welfare Services Act*

Concept Chart – Owners and Custodians under the *Provincial Animal Welfare Services Act*

Section	Primary Concepts Confirmed by Transition Council	Additional Information	Date of Confirmation
This column outlines the specific section of regulation.	This column provides a description of the objectives sought and the associated reasoning.	This column provides any additional specific information required to ensure clarity.	This column outlines when Transition Council confirmed the concept as well as any additional questions raised.
<b>Regulatory Exemption for Non-Members – Owners and Custodians under the <i>Provincial Animal Welfare Services Act, 2019</i></b>	<p><b>General</b></p> <p>Section 2 of Schedule 1 of the <i>VPA</i> contains the following statutory exemption for non-members:</p> <p style="padding-left: 40px;">The administration of a treatment plan by a <u>custodian of an animal</u> if the treatment plan is <u>made by a veterinarian member</u> and carried out at the direction of <u>the owner</u>.</p> <p>Section 93 (1) 8 of the <i>Veterinary Professionals Act (VPA)</i> states that, subject to the approval of the Lieutenant Governor in Council, the Council may make regulations:</p> <p style="padding-left: 40px;">Prescribing exceptions for the purpose of Section 10 or 11 (of the <i>VPA</i>) or limiting or clarifying the exceptions set out in sections 2 and 3 of Schedule 1.</p>	<p>This process would not currently be permitted to continue under the <i>VPA</i> as only members (veterinarians and veterinary technicians) are permitted to carry out authorized activities unless otherwise specifically excepted and exempted.</p> <p>It is important to note that this proposed exemption would only apply to third-party non-member custodians and could not be utilized by members (veterinarians and veterinary technicians).</p>	Transition Council has not yet confirmed the regulatory concept.

Section	Primary Concepts Confirmed by Transition Council	Additional Information	Date of Confirmation
	<p><b>Overview</b></p> <p>Conversations between the College and SOLGEN have identified a potential need to clarify the role and responsibilities that Animal Welfare Services and Animal Welfare Inspectors have over an animal(s) or group of animals when they are removed or seized in accordance with the <i>PAWS Act</i>. This person does not have to be a veterinary professional and is often community and/or shelter partners that Animal Welfare Services works with, but does not directly employ, to safeguard animals.</p> <p>When Animal Welfare Services takes custody of said animal(s), it is responsible for safeguarding the animal(s)' well-being (including providing any necessary veterinary care) until it is either returned to its owner or is officially forfeited to the Crown.</p> <p>When an animal(s) is seized, Animal Welfare Services does not become its legal owner. Instead, they become the primary custodian of the animal(s) and are solely responsible for all care decisions.</p> <p><b>Regulatory Exemption for Owners and Custodians under <i>PAWS</i>.</b></p> <p>In recognition of the importance of Animal Welfare Services being able to continue to deliver these public safety focused services, the following proposed regulatory exemption that clarifies that Animal Welfare Services qualifies as the owner</p>	<p>Additional public consultation by the College on this item would not be required for the following reasons:</p> <ol style="list-style-type: none"> <li>1. The proposed exemption pertains to another legislation framework and is designed to continue to allow existing Ministerial programs to continue to operate; and</li> <li>2. The proposed exemption would be included in Transition Council's larger regulatory concept submission to OMAFA and would be included in their larger review of the material (including the completion of their</li> </ol>	

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	<p>of the animal(s) under the noted statutory exception as long as:</p> <ol style="list-style-type: none"> <li>1. The animal(s) has been removed or seized in accordance with the <i>PAWS Act</i>;</li> <li>2. The animal(s) is under the care of a custodian approved by the Chief Animal Welfare Inspector or their delegate; and</li> <li>3. The custodian adheres to the treatment plan as developed by the veterinarian member (including only administering drugs that have been prescribed by the veterinarian member for the specific animal(s).)</li> </ol>	<p>own public consultation).</p>	