



## AGENDA ITEM 8.3

### TOPIC: Conflict of Interest

### History of Topic

#### *General Information*

A conflict of interest arises when a member's duties and responsibilities as a veterinary professional may be influenced by some other interest that the member has, usually a personal or financial interest. A conflict of interest can be real, perceived, or potential. The test for a conflict of interest is not only whether the member believes that such an interest may affect their professional judgement but also the perception of a reasonable person aware of the circumstances.

Regulation 1093 made under the *Veterinarians Act* outlines conflicts of interest in two ways. First, having a conflict of interest is listed as an act of professional misconduct. Second, Sections 42-44 provide examples of things that do and do not constitute a conflict of interest in practice. The College also has both a *Professional Practice Standard* and *Guide to the Professional Practice Standard* that speak directly to conflicts of interest.

The current framework for conflicts of interest is very prescriptive. While helpful in illustrating the different ways and occasions in which a conflict of interest may occur in practice, the current framework's focus also creates an imbalance in the level of oversight and/or guidance available between situations that are spoken to directly in regulation language versus those that are not.

The current framework for conflicts of interest – particularly the rules around employment arrangements outlined in Section 43 – has been used to determine who can and cannot employ a veterinarian (and therefore hold a certificate of accreditation for an accredited facility). Interpretation of these rules has shifted over the years, including updates as recent as 2019, and has resulted in these rules serving a dual purpose of addressing conflicts of interest while also serving as the basis for determining who can own a veterinary facility and have crossed over into areas can now be directly addressed through the rules and regulations surrounding accreditation.

Given these issues, a shift in approach is advisable under the *Veterinary Professionals Act, 2024 (VPA)*.

## Legislative Framework

The regulatory concept related to professional misconduct includes a subsection related to “practising the profession while in a conflict of interest”. Sections 93 (1) 35 and 36 of the VPA permit the development of supplementary regulation language related to professional misconduct which can include additional information related to what constitutes a conflict of interest.

## Development of Regulatory Concept by Transition Council

Transition Council reviewed and forwarded for public consultation a regulatory concept related to conflict of interest in September 2024. This concept included:

### 1. Focus on Behaviours

Transition Council proposed the development of regulation language that focuses on the specific activities that may qualify as real or potential conflicts of interest to allow for consistent application across all sectors. This approach is a shift away from the current structure outlined in Regulation 1093, which is more focused on conflicts of interest arising from specific workplaces and/or arrangements.

### 2. Enhanced Focus on Professional Judgement

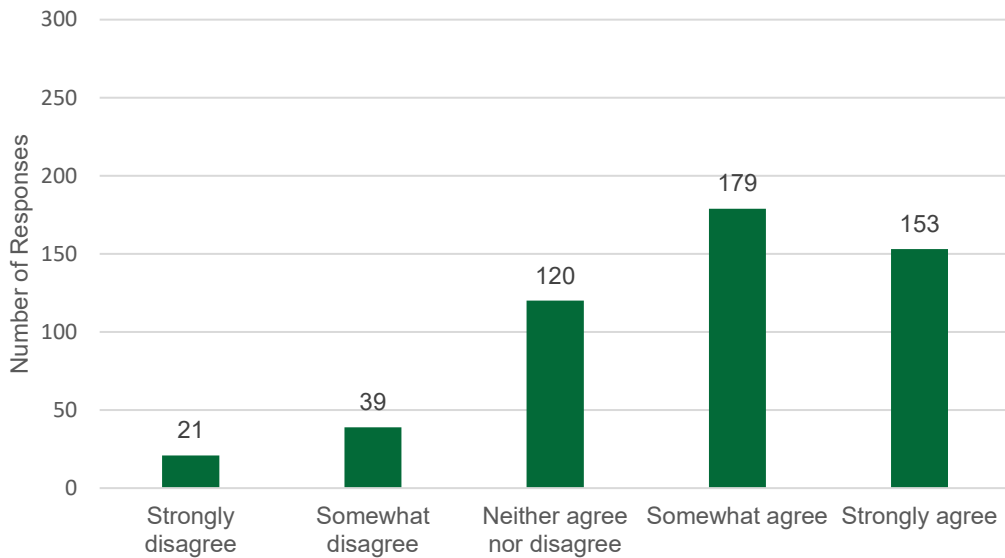
Transition Council proposed the development of regulation language that underscores the fundamental test associated with conflicts of interest – that a member must determine whether an interest may affect their professional judgement or may create a reasonable perception that their professional judgement has been influenced and take steps to avoid or manage the conflict.

## General Consultation Feedback

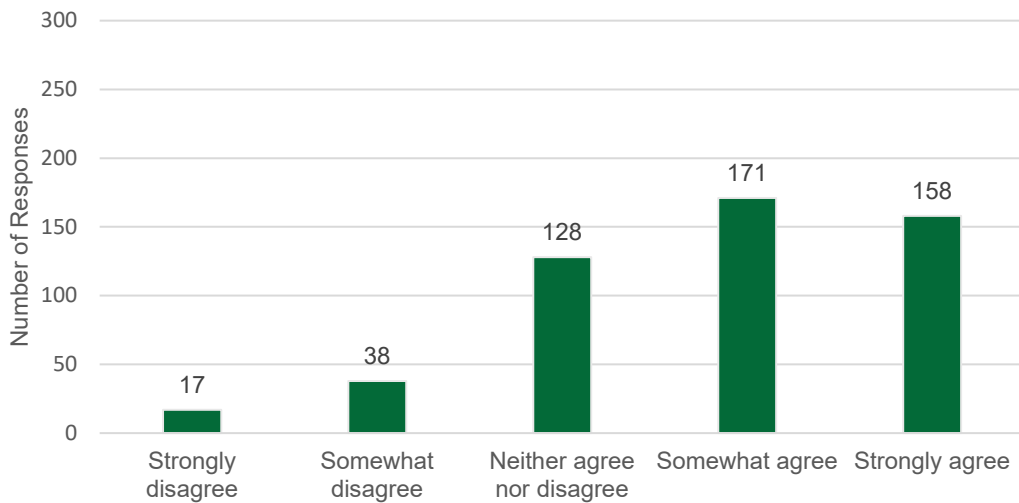
Conflict of interest was included in the list of regulatory concepts that were circulated for public consultation from February 11 to April 16, 2025.

The following quantitative responses were received related to conflict of interest:

Survey respondents were asked to indicate their agreement with two statements about Conflict of Interest on Likert scale of responses from “Strongly disagree” to “Strongly agree”. The figure below presents the results of 512 responses to the statement “*The proposed approach to conflict of interest is appropriate.*”.



The figure below presents the results of 512 responses to the statement “*The proposed approach to conflict of interest is sufficient to protect the public.*”.



In addition to the quantitative data, the following qualitative trends were noted:

- Requests for more detail and clarity in the proposed concept;
- Requests for examples of conflicts of interest;
- Questions about whether both prescribing and dispensing prescription drugs is a conflict of interest;
- The need for education for both the public and members on real and perceived conflicts of interest; and
- Questions about the intersection of corporate practice and conflicts of interest.

For more information on this consultation feedback, please refer to pages 18-21 of the full consultation report.

## Consultation Feedback from Key Partners

### *Ontario Veterinary Medical Association (OVMA)*

In its April 15, 2025, submission the OVMA shared:

- Interest in the new language closely mirroring existing language; and
- Requests for additional guidance in policy related to how the College will manage situations with perceived conflicts of interest to be published.

### *Ontario Association of Veterinary Technicians (OAVT)*

In its April 16, 2025, submission the OAVT did not provide any specific comments related to conflict of interest.

### *Other Submissions:*

- Comments about conflicts of interest related to veterinarians being able to both prescribe and dispense prescription drugs
  - o PetsDrugMart, Ontario Pharmacy Association (OPA)
- Overall support for approach
  - o Ottawa Humane Society (OHS), Animal Shelters Professionals of Ontario (ASPO), OPA, Provet Alliance
- Requests for clarity surrounding conflict of interest provisions and applicability
  - o OHS, Alberta Veterinary Medical Association (ABVMA), Ontario Association of Bovine Practitioners (OABP), Ontario Association of Swine Practitioners (OASV)

For more information on this consultation feedback, please refer to the beginning of page 131 of the full consultation report.

## Further Information Gathered Based on Consultation Feedback

### 1. Opportunity to Provide More Guidance

In recognition of the feedback received through the consultation as well as in the interest of providing as much information as possible to the Ontario Ministry of Agriculture, Food and Agribusiness (Ministry) pertaining to the development of potential supplementary regulatory section of professional misconduct related to conflict of interest, research has been undertaken to consider what could potentially be additionally forwarded by Transition Council. In particular, careful review and consideration has been given to the approaches taken by other regulatory colleges in Ontario and how their rules and regulations may be appropriately configured over into the practice of veterinary medicine.

## Additional Context to Assist with Decision-Making

Based on this work, Transition Council is asked to consider the inclusion of the following additional examples to an appendix to the regulatory concept on conflict of interest.

Components within the specific conflict of interest regulation language could include:

1. Inclusion of a Definitions Section

Definitions to be provided include those related to the terms: ‘benefit’, ‘non-arm’s length relationship’, ‘related person’, and ‘veterinary goods or services’.

2. Information Related to What Constitutes a Conflict of Interest

This section could begin with an explanation of when a conflict exists that states:

A member is in a conflict of interest if the member’s personal or financial interest, or the personal or financial interest of another person who is in a non-arm’s length relationship with the member conflicts, appears to conflict or potentially conflicts with the member’s professional or ethical duty to a client or an animal or the exercise of the member’s professional judgment.

This could then be followed by more specific examples of being in a conflict including:

- Requesting, accepting, or receiving a benefit by reason of the referral of a client, animal, or specimen to another other person;
- Offering, making, or conferring a benefit to a person by reason of the referral of a client, animal, or specimen to the member or to a facility or practice in which the member is employed, or with which the member is contracted or associated, or in which the member has a financial interest;
- Offering, making, or conferring a benefit to a client in relation to the provision or supply of veterinary services other than,
  - o an adjustment in the fee or amount that would otherwise be charged with regard to that client for that veterinary service, or
  - o the provision to a client, at no charge, of an item of a nominal value, to be used in maintaining or promoting the well-being or health of an animal;
- Receiving any benefit, directly or indirectly, from,
  - o a person to whom the member refers clients, animals, or specimens, or
  - o a person who sells or otherwise supplies any veterinary goods or services to the clients of the member;
- Entering into any agreement or arrangement that adversely influences or appears to adversely influence the exercise of their professional expertise or judgment, or their ability to engage in the practice of the profession in an ethical manner or in accordance with the standards of practice of the profession;

- Renting premises to or from any person to whom the member refers clients, animals, or specimens or who sells or otherwise supplies veterinary good or services to clients of the member where the rent charged is,
  - o either below or above usual market value for the area in which the premises are located, or
  - o the amount of the rent is related to either the volume of business carried out in the premises by the tenant or to the referral of clients to the landlord; and
- Selling or otherwise supplying any drug or biological preparation to a client at a profit, except,
  - o a drug sold or supplied by a member to their client that is necessary,
  - o for an immediate treatment of an animal,
  - o in an emergency, or
  - o where the services of a pharmacist are not reasonably readily available.

### 3. Information Related to What is Not a Conflict of Interest

To assist with further clarity, this area could also contain specific examples of what is not a conflict of interest including:

- A member is not in a conflict of interest in connection with the member, or a related person, or a related corporation having a financial interest in a facility to which the member refers a client for a diagnostic or therapeutic service if,
  - o the facility is owned by a corporation the shares of which are publicly traded through a stock exchange and the corporation is not wholly, substantially, or actually owned or controlled by the member, or a related person, or a combination of them; or
  - o the fact of the interest is disclosed to the client before a service is performed, and
  - o the member provides written notice to the client that, if the client chooses another service provider, the client's choice will not affect the client's ability to obtain services from the member unless the choice would result in the care provided to the animal being uncoordinated; and
  - o in the case of laboratory testing, or radiological, or other technical procedures, the member provides a written explanation to the client that the member is professionally responsible for the quality of the testing or technical procedures performed for the animal;
- A member is not in a conflict of interest in connection with the referral of a client, animal, or specimen to a person who is in a non-arm's length relationship with the member if no direct benefit is received by the member and, if, before making the referral, the member discloses to the client the nature of the relationship between the member and the person in the non-arm's length relationship;

- A member is not in a conflict of interest in connection with the referral of a client, animal, or specimen to the member from a person who is in a non-arm's length relationship with the member if no direct benefit is conferred by the member and, if, before the member provides any veterinary goods or services, the member discloses to the client the nature of the relationship between the member and the person in the non-arm's length relationship;
- A member is not in a conflict of interest in connection with the paying of rent with respect to the lease of premises in which the member practices the profession if the rent charged reflects the normal rent payable for the same type of premises in the same geographical area and is not related to either the volume of business carried out in the premises or to the referral of clients by the member to the landlord;
- A member is not in a conflict of interest in connection with the member, or a related person, or a related corporation having a financial interest in the manufacturer, vendor, or supplier of a drug or substance if, the fact of the financial interest is disclosed to the client prior to the member providing veterinary services in relation to the drug or substance; or
  - o the manufacturer, vendor, or supplier of the drug or substance is a corporation, the shares of which are publicly traded through a stock exchange, and neither the member, a related person, or a related corporation, or any combination of them, wholly or substantially owns the corporation or has the ability to exercise, directly or indirectly, control or significant influence over its operating or financial decisions;
- A member is not in a conflict of interest if,
  - o they enter into a partnership, association, or employment agreement with another member under which the drawings, interest, or remuneration of the partners, associates, or employees, as the case may be, is related to the amount of fees charged by them, the net revenue from their practice of veterinary medicine, or any other measure of financial performance respecting their practice of veterinary medicine; or
  - o they enter into an agreement with another member to form a professional corporation, under which the drawings, interest, or remuneration of the members is related to the amount of fees charged by them, the net revenue from their practice of veterinary medicine, or any other measure of financial performance respecting their practice of veterinary medicine; and
- A member is not in a conflict of interest if they refer or transfer an animal or a specimen to another veterinarian who is a partner, associate, employer, or employee of the member if,
  - o the animal is seen or the specimen is examined in the same facility by both veterinarians; or

- the member provides a written explanation to the client of the member's relationship to the other veterinarian, if the animal is seen or the specimen is examined in a different facility.

If incorporated by the Ministry, further details and guidance related to these sections could then be provided through College Policy.

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

## Attachments

1. Appendix A – Regulatory Concept (as presented in the public consultation).

Concept Chart – Conflict of Interest

Section	Primary Concepts Confirmed by Transition Council	Additional Information	Date of Confirmation
<p>This column outlines the specific section of regulation.</p>	<p>This column provides a description of the objectives sought and the associated reasoning.</p>	<p>This column provides any additional specific information required to ensure clarity.</p>	<p>This column outlines when Transition Council confirmed the concept as well as any additional questions raised.</p>
<p><b>Conflict of Interest</b></p>	<p><b>General</b></p> <p>Transition Council proposes the development of regulation language related to conflict of interest in accordance with Sections 93 (1) 35 and 36 of the <i>Veterinary Professionals Act, 2024 (VPA)</i>. This regulation language will apply to both veterinarians and veterinary technician members.</p> <p><b>Purpose</b></p> <p>The College of Veterinary Professionals of Ontario (CVPO) will be responsible for overseeing the activities and behaviours that constitute professional misconduct to address and mitigate practice concerns as they arise. This includes conflicts of interest which occur when a member’s professional judgement is unduly influenced by either personal or financial interests.</p> <p><b>Overview</b></p>		<p>Transition Council confirmed the regulatory concept related to conflict of interest in September 2024.</p>

Section	Primary Concepts Confirmed by Transition Council	Additional Information	Date of Confirmation
	<p>The requirement for a member to not be in a conflict of interest will be listed directly within the acts of professional misconduct. Given the complex topic, Transition Council is proposing an additional subsection of professional misconduct that speaks more directly to what does and does not qualify as a conflict of interest to assist members with determining how to properly manage these concerns.</p> <p><b>Focus on Behaviours Not Work Locations</b></p> <p>CVPO’s oversight will focus on the types of behaviours that qualify as conflicts of interest. In identifying these behaviours, the CVPO would be concerned with the specific activities that may qualify as real or potential conflicts of interest instead of the work locations and/or arrangements where they may occur.</p> <p><b>Highlighting the Importance of Professional Judgement</b></p> <p>CVPO’s oversight will also focus on underscoring the fundamental test associated with conflicts of interest – that a member must determine whether an interest may affect their professional judgement or may create a reasonable perception that their professional judgement has been influenced and take steps to avoid or manage the conflict.</p>		