



**A submission to the Access to Information and Protection of Privacy Act (ATIPPA) review committee by
The Newfoundland and Labrador Veterinary Medical Association (NaLVMA)**

August 18, 2014

Newfoundland and Labrador Veterinary Medical Association (NaLVMA) summary document for the Access to Information and Protection of Privacy Act (ATIPPA) review committee



The Newfoundland and Labrador Veterinary Medical Association (NaLVMA) is committed to promoting, supporting and advancing the veterinary profession in Newfoundland and Labrador. The Association promotes public awareness of the veterinary profession, contributes to the betterment of animal health and welfare, and promotes public health.

Veterinarians in Newfoundland and Labrador are requesting that their practice and confidential health medical records under the Veterinarian-Client-Patient-Relationship (VCPR) be exempt from queries made through the Access to Information and Protection of Privacy Act (ATIPPA).

Background Information:

- Similar to human health care professionals, veterinary professionals obtain health information under a Veterinarian-Client-Patient-Relationship (VCPR) which means that all health information collected is held confidential. The health information and records are owned by the client and the veterinarians are the custodians.
- The VCPR is a globally accepted veterinary ethical code and it is the foundation of veterinary medicine. Confidentiality of health records exists to ensure that the public, animal owners and livestock/aquaculture producers freely share information with their veterinarian. The rationale for the confidentiality of health records and the VCPR is similar to that with other licensed professionals such as human health care professionals and solicitors (solicitor-client privilege). Client trust is essential to the public good to ensure free flow of information between the client and their veterinarian. This will allow for rapid detection/treatment/mitigation of disease. Health issues of public concern are considered under the federal reporting mechanisms already in place.
- A VCPR requires the following (Canadian Veterinary Medical Association; the Newfoundland and Labrador Veterinary Medical Association):
 - The client (owner or owner's agent of the animal [s]) has given the responsibility of medical care to the veterinarian and has agreed to follow the instructions of the veterinarian, and;
 - The veterinarian has assumed the responsibility from the client for making clinical judgment regarding the health of the animal(s), the need for medical treatment, and for ensuring the provision of ongoing medical care for the animal(s), and;
 - The veterinarian has sufficient knowledge of the health status of the animal(s) and the care received or to be received. The knowledge has been obtained through recent consultations and/or examination of the animal(s) and the premises where they are (it is) kept or through a history of medically appropriate and timely examinations or interventions, and;
 - The veterinarian is readily available, or has made the necessary arrangements with another veterinarian, for ongoing medical care in case of adverse reactions or therapy failure.

- The Newfoundland and Labrador College of Veterinarians (NL COV) is the licensing body for veterinarians in NL and it is charged with ensuring that the practice of veterinary medicine in the province is carried out in a manner that protects the public interest. The Veterinary Medical Act empowers the NL COV to make the bylaws, clinical standards and code of ethics that outline confidentiality. According to the Veterinary Clinical Standards for NL adopted by the College (section 2.1(8)) *“Unless required for the purposes of a clinic inspection, or other legitimate action of the College, a medical record is a considered confidential record that is accessible only to the owner of the animal (or representative) and the attending veterinary clinic.”*
- The federal government requires that veterinarians report to the appropriate authorities if a reportable disease or a disease of human health concern is suspected. These mechanisms are in place to protect the public and the health of animals.
- Veterinarians employed by the Government of Newfoundland and Labrador (GNL) play a dual role. These roles are regulatory and primary clinical practice. This is necessary due to the shortage of veterinarians who are available to work in food production, and in rural areas that require significant travel. Both these roles are important for the sustainability of the industry, the protection of the public, socioeconomic reasons and the welfare of the animals.
- Government employed veterinarians give advice on policy, conduct and oversee research in support of industry and government needs, perform biosecurity audits, develop management plans, conduct laboratory testing and provide primary veterinary care. Primary veterinary care involves veterinary diagnostic visits, sampling and testing of animals, interpretation of laboratory tests, developing mitigation and treatment strategies, analysis of treatment success and preventative medicine.

Issue:

- The veterinarians employed by the GNL, particularly within aquaculture but potentially within the livestock and poultry industries as well, are constantly being requested under the Access to Information and Protection of Privacy Act (ATIPPA) to release health information that would otherwise be held confidential within the VCPR.
- The majority of the requests related to fish health were eventually either denied access or given partial disclosure. ATIPPA requests that will be ultimately denied require significant time, effort and resources. If confidential health records and information collected within the confines of a valid VCPR are mandated to be exempt from the ATIPPA, personnel and resources may be allocated more efficiently. Client trust is essential to the public good to ensure free flow of information between the client and their veterinarian. Health issues of public concern are already considered by federal reporting requirements.
- Disclosure of confidential information by a veterinarian obtained through a VCPR would be considered unethical professional misconduct and may result in disciplinary action by the NL College of Veterinarians (Veterinary Medical Act-Newfoundland and Labrador).
- Health care providers, solicitors, and potentially other professionals working in similar roles for government are not required to break their ethical code, as they are exempt from requests under ATIPPA to release confidential health records. Veterinarians practicing in the province of Newfoundland and Labrador are requesting the same exemption for confidential animal health records.

Conclusion:

The Newfoundland and Labrador Veterinary Medical Association takes the position that Veterinarians employed by the Government of Newfoundland Labrador should not disclose confidential health records upon receipt of an ATIPPA request for such information. The interests of the public and animals are already considered in the federal reporting requirements. To release confidential health information, veterinarians who practice primary clinical care within the structure of government will be forced to breach a global veterinary ethical code. This will result in the loss of client trust and will impact the practice of veterinary medicine in NL. The VCPR exists so that information is freely shared with veterinarians which would allow for rapid detection/treatment/mitigation of disease. If a public health risk or a reportable disease is detected, it will be reported to the federal agencies as required. Releasing any other health information to the government or the public will not assist the public. Breaking the confidentiality of health records under the VCPR will result in the clients not being forthcoming with information and early detection of reportable and emerging diseases will be delayed. This will not safeguard the industry, the public or the welfare of the animals.

Veterinarians in Newfoundland and Labrador are requesting that their practice and confidential health medical records under the Veterinarian-Client-Patient-Relationship (VCPR) be exempt from queries made through the Access to Information and Protection of Privacy Act (ATIPPA).





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July 25, 2014

Dr. Kate Wilson
Newfoundland & Labrador Veterinary Medical Association
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Dear Dr. Wilson:

Re: CVMA Letter of Support for Client Confidentiality of Aquaculture Veterinarians' Medical Records

The Canadian Veterinary Medical Association (CVMA) is writing to provide support for aquaculture veterinarians employed by the Government of Newfoundland and Labrador regarding an access to information request to release confidential animal health records through the provincial Access to Information and Protection of Privacy Act (ATIPPA).

The CVMA recognizes that provincial veterinary regulatory authorities license veterinarians in Canada and thus regulate the practice of veterinary medicine. Licensed veterinarians must adhere to the professional standard set by their respective provincial regulatory authority. According to provincial regulations, veterinarians diagnosing and treating disease and prescribing medication must do so only within the confines of a valid veterinarian-client-patient relationship (VCPR).

The VCPR is a fundamental tenet of veterinary medicine. This relationship, and the confidentiality that is extended exists to ensure the public, animal owners and livestock/aquaculture producers readily come forward with their animal health problem to highly trained and licensed veterinary professionals. By doing so, Canada is able to maintain the health of its animal/fish stocks and quickly mitigate health problems before they become serious public health and economic problems.

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One of the main pillars of the VCPR is client confidentiality, in particular for client medical records. If medical record confidentiality is breached, clients will become less willing to share animal health information resulting in delayed disease detection and mitigation. If this involved a reportable disease, there could be a significant risk to animal health and public health.

The CVMA supports the confidentiality of client medical records in order to ensure aquaculture veterinarians are able to maintain a valid VCPR as set out by the provincial veterinary regulatory authority.

Sincerely,



Section 30

Dr. Jean Gauvin
President
Canadian Veterinary Medical Association

July 31, 2014

Dr. Kate Wilson
Newfoundland & Labrador Veterinary Medical Association
P.O. Box 818
Mount Pearl, NL A1N 3C8

Dear Dr. Wilson,

The Eastern Aquaculture Veterinary Association (EAVA) is a not for profit organization that supports aquaculture veterinarians in Eastern Canada and provides a unified voice for veterinarians and access to continuing education. This letter from EAVA is in support of the submission being made by the Newfoundland and Labrador Veterinary Medical Association (NaLVMA) to the Access to Information and Protection of Privacy Act (ATIPPA) review committee. NaLVMA is requesting that Veterinarians in Newfoundland and Labrador be exempt from queries to release confidential health information under ATIPPA and that their practice and confidential health medical records under the Veterinarian-Client-Patient-Relationship (VCPR) remain confidential.

Aquaculture Veterinarians can be employed by aquaculture companies, private veterinary clinics, feed companies, pharmacy companies and government. Veterinarians in government have vast responsibilities. In some regions of Canada, (e.g., NL and NS) veterinarians in government also act in a clinical role to provide primary veterinary care by assessing, consulting, and prescribing treatment and mitigation strategies for populations of animals within their jurisdiction. Primary veterinary care also involves veterinary diagnostic visits, sampling and testing of animals, interpretation of laboratory tests, mitigation and treatment strategies, analysis of treatment success and preventative medicine. EAVA's position regarding health records collected under the Veterinarian-Client-Patient-Relationship (VCPR), regardless of their place of practice or employment, are that veterinarians are ethically required to maintain the confidentiality of this information.

In Newfoundland and Labrador, the Newfoundland and Labrador College of Veterinarians advise that, unless required for the purposes of a clinic inspection, or other legitimate action of the College, a medical record is considered to be a confidential record that is accessible only to the owner of the animal (or representative) and the attending veterinary clinic (Veterinary Clinical Standards for NL adopted by the College (section 2.1(8)). Failure to comply with the Clinical Standards, By-laws or Code of Ethics of the profession exposes the veterinarian to discipline by the College.

It is imperative that the VCPR be protected and safe guarded. Any information that is released to government or the public will be undoubtedly detrimental to veterinarians who practice in Newfoundland the Labrador, to their clients, and most importantly, to the welfare of the animals involved. The public interests are already considered in the veterinarian's line of work due to the required reporting to Health Canada and the CFIA. Client trust will be destroyed, and open communication between the client and veterinarian will cease. This will lead to lack of expediency, accuracy, and completeness of a clinician's practice, a subsequent lag in diagnosis and treatment of disease, and potentially devastating spread of pathogens between populations of animals. This serves the general public in no positive way. Confidentiality is necessary to successfully operate a health system – it results in disclosure, investigation, and mitigation. For these reasons, a precedent that breaches the inherent confidentiality of the VCPR must not be set.

EAVA takes the position that the health records obtained under the veterinarian-client-patient-relationship (VCPR) should not be disclosed due to a request under ATIPPA. Confidential veterinary/client information should be protected in a similar manner to human medical records and those obtained by solicitors and other professionals employed by government. It places the veterinarians in an ethical quandary; it arguably contravenes the intent of ATIPPA; and it jeopardizes the public good.

Sincerely,

Dr. Stacy Fielding

President, Eastern Aquaculture Veterinary Association