

# Conflicts of Interest in the Practice of Veterinary Medicine

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## Introduction

The College's *Professional Practice Standard: Conflicts of Interest* outlines the expectations of a veterinarian associated with conflict of interest. Using a question-and-answer format, this *Guide to the Professional Practice Standard* addresses questions and offers suggestions on how a veterinarian should apply the *Professional Practice Standard* in situations that arise in veterinary practice.



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## Managing Conflicts of Interest

### 1. When is a veterinarian in a real or perceived conflict of interest?

A conflict of interest arises when a veterinarian's duties and responsibilities may be influenced by some other interest that the veterinarian has, usually a personal or financial interest. The test for a conflict of interest is not only whether the veterinarian believes that such an interest may influence their professional judgment, but also whether the perception of a reasonable person aware of the circumstances as to whether the conflict may influence the professional judgment of the veterinarian.

For more guidance on how to manage potential conflicts of interest, please see the chart included in Question 4 of this document.

### 2. How can a veterinarian identify a real or perceived conflict of interest?

Careers are dynamic in nature. Jobs and services evolve over time. Client caseloads are not static. Every professional needs to continually consider circumstances that may unduly influence or cloud their decision-making. A veterinarian should regularly consider the nature of their relationships with persons and/or organizations, and how these may influence, or not, their professional judgment.

One approach is to ask oneself the question "would a reasonable person, aware of the circumstances, consider my relationship with the person(s) and/or organization(s) involved to have the ability to affect my professional judgment related to animal care?"

If the answer is "yes" or "maybe" then the veterinarian should treat the situation as a conflict of interest.

### 3. When should a veterinarian declare a real or perceived conflict of interest?

A veterinarian should disclose the circumstances of a real or potential conflict of interest to the person(s) and/or organization(s) affected by the conflict as soon as the veterinarian identifies that it exists.

### 4. How can a veterinarian manage a real or perceived conflict of interest?

Once a real or perceived conflict of interest is identified and declared, the next step is for a veterinarian to manage the conflict and determine the appropriate action. This commonly involves a discussion with the affected person(s) and/or organization(s) and use of a veterinarian's professional judgment to determine whether it is appropriate to proceed with the provision of veterinary services in that circumstance.

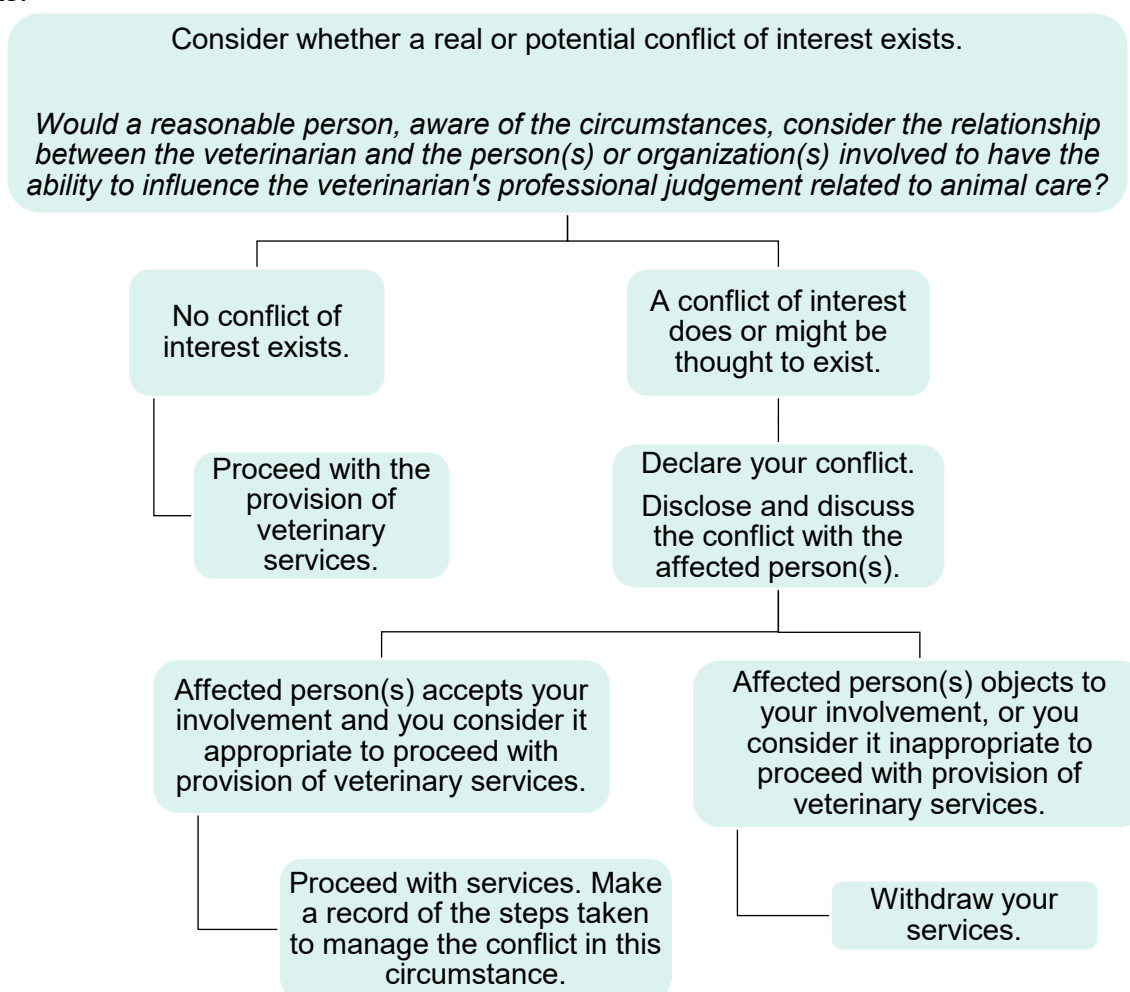
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Factors that can help determine whether it is appropriate for a veterinarian to proceed include:

- The degree to which the real or perceived conflict of interest could reasonably affect a veterinarian's professional judgment in any context;
- The extent to which a veterinarian has established safeguards to ensure the veterinarian is able to exercise professional judgment without inappropriate pressure or interference;
- The ability for the real or perceived conflict of interest to be adequately addressed through disclosure to the client;
- The ability for the client to understand the disclosure and provide voluntary and informed consent; and
- Whether the disclosure has occurred and client consent has been obtained.

The following flowchart for managing conflicts of interest offers additional guidance on how to manage conflicts:



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## Conflicts of Interest and Recordkeeping

### 5. What records should a veterinarian keep related to conflict of interest?

A veterinarian should keep a record of any real or potential conflict of interest that a veterinarian determines to be of higher risk. Such a record may be made in an animal's medical record or in general clinic records, as appropriate. A veterinarian may wish to record:

1. The nature of the real or perceived conflict including the person(s) and/or organization(s) involved;
2. The process by which the real or perceived conflict is managed; and
3. Situations in which the veterinarian identifies that a possible real or perceived conflict may exist, but after review determines that no conflict exists and proceeds to provide veterinary services.

## Conflicts of Interest and Veterinary Employment

### 6. Can a veterinarian receive a production-based salary and/or an annual bonus?

A veterinarian is permitted to receive a production-based salary and/or annual bonus if they are employed or contracted by another veterinarian. A veterinarian is in a conflict of interest if the production-based salary and/or annual bonus inappropriately influences their professional judgment and/or clinical decision-making.

Strategies for Management:

- A veterinarian holds a conversation with their veterinary employer in which they confirm that any proposed compensation structure cannot inappropriately influence or dictate their professional judgment and/or clinical decision making.
- A veterinarian requests that their employment contract contains a statement that recognizes their professional autonomy.

### 7. Can a veterinarian be employed or contracted by more than one employer?

A veterinarian is permitted to be employed or contracted by multiple different employers. This includes veterinarians who provide locum services for different veterinary facilities. It is a veterinarian's professional responsibility to determine whether a real or perceived conflict of interest exists between their different forms of employment. If a veterinarian believes that a conflict may exist, it is the veterinarian's responsibility to determine the actions required to manage the conflict.

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Strategies for Management:

- A veterinarian considers their employment with their various employers and determines if and what conflicts exist between them.
- A veterinarian works with their various employers to address any identified conflicts and to provide disclosure to their clients, if required.

### **8. Can a veterinarian refer clients between their different veterinary employers? What if the veterinarian owns one of the veterinary businesses to which they refer?**

Veterinarians are permitted to provide their clients with referrals to other practitioners and/or services. However, these referrals should be made first and foremost in the best interest of the client and their animal(s). If a veterinarian chooses to refer to another veterinary facility that the veterinarian owns or works for, the veterinarian is obligated to inform the client of this relationship in writing. When possible, veterinarians are advised to provide clients with several different referral options in order to allow for the client to make an informed decision.

For more information related to written explanations for referrals between different veterinary employers please refer to Sections 42 (4) and (5) of Regulation 1093.

### **9. Can a veterinarian be employed by a non-veterinarian employer or contractor? Can a veterinarian offer veterinary services to any clients besides their non-veterinarian employer or contractor?**

A veterinarian is permitted to be employed or contracted by a person other than another veterinarian or a professional corporation owned by another veterinarian. A veterinarian has a conflict of interest if they provide veterinary services to any other animals other than those directly owned by the non-veterinarian employer or contractor when performing their employment duties for that specific employer or contractor.

### **10. Are there circumstances where a veterinarian can provide veterinary services for animals other than those directly owned by their non-veterinary employer or contractor?**

Yes, there are circumstances where a veterinarian does not have a conflict of interest when providing veterinary services to animals other than those directly owned by their non-veterinarian employer or contractor in the course of their employment. Section 43 of Regulation 1093 outlines several circumstances where this can occur. This includes veterinarians who work for universities and colleges, humane societies and municipal pounds, the Crown (i.e. CFIA, OMAFRA), specific manufacturing sectors, etc.

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For a complete list of exemptions, please refer directly to Section 43 of Regulation 1093.

### **11. Can a non-veterinarian employer or contractor control or influence any clinical or professional aspect of a veterinarian's provision of veterinary services?**

No. A veterinarian has a conflict of interest if a non-veterinarian employer or contractor exercises control or influence over clinical or professional aspects of the veterinarian's work. If this occurs, the veterinarian must manage the conflict of interest.

Strategies for Management:

- A veterinarian has a conversation with their non-veterinary employer or contractor and explains that they would have a conflict of interest if they allowed for professional judgment and/or clinical decision-making to be controlled or influenced. The veterinarian confirms that their employer/contractor will not exert control or influence.
- A veterinarian requests that their employment contract contains a statement that recognizes their professional autonomy.

## **Conflicts of Interest and Client Communication**

### **12. How can a veterinarian discuss real or potential conflicts of interest with a client?**

A veterinarian is expected to disclose any real or potential conflicts of interest to their clients at the first reasonable opportunity.

Veterinarians are encouraged to discuss any known and applicable conflicts of interest with their clients during the formation of a veterinarian-client-patient relationship ("VCPR") and to manage any conflicts of interest before proceeding with the provision of veterinary services.

Real and/or potential conflicts of interest will also arise throughout the duration of a VCPR. Veterinarians are expected to identify and manage any conflicts of interest as they emerge and to bring any applicable conflict to the attention of their clients as soon as possible.

### **13. How can a veterinarian manage any real or potential conflicts of interest that are identified or otherwise raised by a client?**

Real or potential conflicts of interest identified or otherwise raised by clients are to be treated in the same manner as conflicts identified by the veterinarian. Real or potential conflicts of interest related to a specific client and/or animal(s) should be documented within the specific medical record.

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## Conflicts of Interest and Business Arrangements and Referrals

### 14. When would a referral to or from a veterinarian be considered a conflict of interest?

A veterinarian has a conflict of interest when a referral is made to or from any other person and the veterinarian, a related person, or an employee or employer of the veterinarian receives, makes or confers a fee, credit or other benefit by reason of the referral.

This does not apply to referrals amongst veterinarians within the same veterinary facility.

When a veterinarian makes a referral of an animal(s) to another veterinarian whom they believe is the right individual to manage the case without any associated benefits, there is no conflict of interest.

### 15. Is it a conflict of interest to own or be a partner in a non-veterinary business while also working in clinical practice?

A veterinarian is permitted to own or be a partner in a non-veterinary business while also working in clinical practice. A veterinarian cannot benefit from referrals to or from their non-veterinary business without providing clients with a written explanation of the veterinarian's interest in the business. When possible, veterinarians are advised to provide clients with several different referral options in order to allow for the client to make an informed decision.

Examples of non-veterinary businesses may include but are not limited to:

- Laboratory testing;
- Pet food stores; and
- Animal training.

In accordance with Section 42 (5) of Regulation 1093 written explanations for referrals to non-veterinary businesses that the referring veterinarian owns or receives a benefit from must include:

- A written explanation of their interest in the non-veterinary business; and
- Written notice that if the client chooses another service provider the client's choice will not affect their ability to obtain services from the veterinarian unless the client's choice would result in uncoordinated animal care.

For more information related to these written explanations, including additional requirements related to laboratory, radiological, and other technical procedures, please refer to Section 42 (5) of Regulation 1093.

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## **16. What if the non-veterinary business is owned or associated with a person related to a veterinarian?**

The same rules apply as when the non-veterinary business is directly owned or associated with a veterinarian. This is due to the veterinarian's ongoing real and/or perceived ability to directly or indirectly benefit from their relationship to the person owning or receiving a benefit from the non-veterinary business. (ex. spouse, parent, sibling, etc.)

## **17. Is it a conflict of interest for a veterinarian to refer clients to the local emergency clinic for after-hours care if they are a shareholder of the emergency clinic?**

Yes, this is a separate business where the veterinarian holds a financial interest. A veterinarian is required to disclose this connection to their client and to provide them with a written explanation of the relationship. For more information related to written explanations, please refer to Section 42 (4) and (5) of Regulation 1093.

Strategy for Management:

- A veterinarian discusses with their client during the formation of the VCPR that their after-hours care services are provided by an emergency clinic where they are a shareholder. They provide their client with a written explanation of their relationship with the emergency clinic.

## **18. Is it appropriate for a landlord to charge rent based on the revenue of the veterinary facility that is leasing the space?**

No. Lease arrangements that are dependent on the volume of business generated by the veterinarian place the veterinarian in a conflict of interest and are not permitted.

Strategies for Management:

- A veterinarian has a conversation with their potential landlord to inform them that having a revenue-based lease arrangement constitutes a conflict of interest for the veterinarian.
- A veterinarian works with their landlord to enter into an acceptable lease arrangement or informs the landlord they are not able to proceed.

## **Conflicts of Interest and Inducements and Rebate Programs**

### **19. What is an inducement?**

Inducements are gifts, commissions, rebates, or fees offered to a veterinarian related to the purchase of pharmaceuticals, medical supplies or devices, or diagnostic or therapeutic services.



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## **20. Can a veterinarian accept an inducement from a company that sells a product(s) to the practice where they work?**

A veterinarian must maintain professional independence free from the influence of industry and in the best interest of the client and patient. A veterinarian should use their professional judgment when determining whether to accept an inducement.

Inducements that are low in monetary value, provide negligible personal benefit, or which are directly relevant to veterinary practice (i.e. textbooks, veterinary equipment, etc.) are likely to be acceptable.

Ultimately, the test that a veterinarian should apply is whether they believe the inducement has the potential to influence their professional judgment.

- i. Questions that a veterinarian can ask themselves when considering an offer of an inducement include: Would my clients consider that my treatment recommendations might be influenced if I accept?
- ii. Hypothetically – what might the media say if my involvement in this inducement was exposed?

## **21. What is a rebate program?**

Rebate programs are a form of inducement in which a veterinary facility enters into a commercial agreement with a product supplier (i.e. pharmaceuticals, medical supplies, pet food, etc.) to receive monetary or otherwise beneficial compensation for the amount of product sold.

## **22. Can a veterinarian participate in a rebate program?**

Standard commercial agreements between veterinary facilities and suppliers around the purchase of products such as rebate structures, volume discounts, loyalty programs, and marketing/promotion agreements are generally acceptable, provided:

- I. They reasonably reflect the level and type of business transacted between the practice and the supplier; and
- II. Any commercial benefits are directed to the business (not the individuals who are responsible for making the treatment or sales decision).

Rebate programs must not affect a veterinarian's professional judgment nor limit a veterinarian's ability to recommend and/or provide products to their clients separate and apart from products purchased within the rebate structure.

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## Conflicts of Interest and Steering

### 23. What is steering?

Steering is a form of conflict of interest. Section 38 of Ontario Regulation 1093 stipulates that a veterinarian “shall not participate directly or indirectly in a system in which another person steers or recommends clients to a member for a professional service or ancillary service.” Steering arrangements involve one or both parties receiving a benefit, usually financial, tied to the recommendation.

For instance, clients should not be offered compensation, rewards, or incentives to refer prospective clients to a veterinarian’s practice. Referrals from a client should be based on sincere opinion alone.

For more information about steering, please refer to the College’s *Policy Statement: Steering*.

## Conflicts of Interest and Pre-Purchase Examinations

### 24. When conducting a pre-purchase examination on an animal(s) or group of animals, what would constitute a conflict of interest for a veterinarian?

There are two situations that would place a veterinarian in a conflict of interest:

1. The veterinarian or an associate in their practice currently treats the animal(s); and
2. The veterinarian conducts the pre-purchase examination on behalf of both the buyer and seller.

Strategy for Management:

To manage these conflicts of interest, before accepting engagement by the second party, a veterinarian needs to:

1. Inform both parties of the conflict of interest and the circumstances giving rise to it;
2. Inform both parties that information gathered during the pre-purchase examination will be shared with both parties; and
3. Obtain informed consent from both parties in writing that they have been informed of 1 and 2 above and agree to the veterinarian conducting the exam on behalf of both of them.

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## Legislative Authority

R.R.O. 1990, Reg 1093: General, s. 42-43 (Veterinarians Act)

## Resources

The following can be found at the College's website at [cvo.org](http://cvo.org):

1. *Professional Practice Standard: Conflicts of Interest in the Practice of Veterinary Medicine*
2. *Policy Statement: Steering*
3. *Professional Practice Standard: Establishing, Maintaining and Discontinuing a Veterinarian-Client-Patient Relationship (VCPR)*
4. *Guide to the Professional Practice Standard: Establishing, Maintaining and Discontinuing a Veterinarian-Client-Patient Relationship (VCPR)*

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