

**REVIEW OF RULES**

Explanation of colour coding:

1. **Red=Obsolete**
2. **Blue=To be inserted**
3. **Green=To be moved to another rule**
4. **Black=No amendments required.**

**Amendment to the rules relating to the practising of veterinary professions**

Why do we have to change the rules? Change is as inevitable as life itself! I want to use two illustrations:

The first one was brought to my attention by Dr Anne de Vos.

At Cambridge University during an examination one day a bright young student popped up and asked the proctor to bring him Cakes and Ale. The following dialog ensued:

Proctor: I beg your pardon?
Student: Sir, I request that you bring me Cakes and Ale!
Proctor: Sorry, no!
Student: Sir, I really must insist. I request and require that you bring me Cakes and Ale!

At this point, the student produced a copy of the four hundred year old Laws of Cambridge, written in Latin and still nominally in effect, and pointed to the section which read (roughly translated): "Gentlemen sitting examinations may request and require Cakes and Ale." Pepsi and hamburgers were judged the modern equivalent, and the student sat there, writing his examination and happily slurping away.

Three weeks later, the student was fined five pounds for not wearing a sword to the examination!

The second a colleague of mine “discovered”!

“Then”, going back in time! Though not as far back as speaking Latin! As you can see from the slide, “back then” times were slow, simple and enjoyable. But times are changing! Fast! Council decided, as far back as 2008, that the rules relating to veterinary practice had to be reviewed and modernised to keep abreast with new technological advances and life in the fast lane.” Now”, As you can see, these days the poor bull loses out on simple pleasures and the cow? Not even a glimmer of pleasure in human kind’s race to produce more so much quicker!

So, here we are at a time when all of you will have the opportunity to give input and to influence the way veterinary medicine will be practiced for the next 10 to 20 years. What a tremendous opportunity! Please use it.

Council embarked on the amendments to the Act [Act No 16 of 2012] in January 2005. It was also resolved that the review of regulations and rules will follow the amendments to the Act. The process to amend the Act was a protracted process having to solicit input from the professions first,
submit to the Department of Agriculture, Forestry and Fisheries and then to follow the Parliamentary legislative programme.

The best opportunity to review the regulations and the rules presented only after the amendment Act was assented to (though not enacted yet) and the new Council was appointed on 31 July 2013. Events may have overtaken us in the form of the Competition Commission. However the intention as per the strategic planning over the past seven years [transition of three Councils] was to revise all legislation. Council created a standing Review Committee during its July 2013 meeting for this exact purpose and its first meeting took place during September 2013. The legislation governing the veterinary professions will in future be reviewed by a standing Review Committee on an ongoing basis. Obviously no changes can be made without the input of the professions and other stakeholders.

The veterinary professions have, as many of you may already know from the SAVC Newsletters and material placed on its website, been placed in the invidious position of being forced to amend some of its rules and code of conduct and practice for veterinarians (COCP) relating to the veterinary professions. The affected rules are those relating to advertising, touting and undercharging.

In terms of section 3 of the Veterinary and Para-Veterinary Professions Act, 1982, Act 19 of 1982, (the “Act”), the objects of the Council are as follows:

1) To regulate the practising of the veterinary professions and para-veterinary professions and the registration of persons practising such professions.
2) To determine the standards of professional conduct of persons practising the veterinary and para-veterinary professions.
3) To maintain and enhance the prestige, status and dignity of the veterinary and para-veterinary professions and the integrity of the persons practising such professions.

In order to achieve its objects, the Council is empowered to, in conjunction with the Minister of Agriculture, Forestry & Fisheries, to promulgate regulations and rules in terms of sections 43 and 30 of the Act. These regulations and rules are referred to as subordinate legislation. The rules are the lowest level or tier of subordinate legislation. To explain, you get an Act (in our case a national Act, which is the governing legislation. These acts are all subject to the Constitution. A law allows for regulations and/or rules to be promulgated in terms of such Act, only to the extent allowed by such Act. You may have heard the term that a regulation is “ultra vires”. It simply means that the regulation was not compliant with the enabling act. The Competition Act has concurrent (parallel) jurisdiction with the Veterinary and Para-Veterinary Professions Act. It simply means that both Acts apply to the profession.

Whilst all persons practising the veterinary of para-veterinary professions are subject to the provisions of the legislation and subordinate legislation mentioned above, they are also subject other national legislation as well. For instance, when driving to perform your duties as a veterinarian, you still have to keep within the speed limit! If you have your own practice, you have to comply with zoning requirements, health and safety laws, labour laws, etc.

In 1998 a piece of legislation was passed in Parliament and signed into law which would have a huge effect on the veterinary profession in 2014. That piece of legislation was the Competition Act, 1998,
Act no 89 of 1998. Its main aim is to enhance competition in South Africa and to ensure a level playing field for everybody in the same business. An amendment to the Competition Act in 2002 made it very clear that the Competition Act has concurrent (parallel) jurisdiction in respect of regulatory bodies, such as the SAVC, by name.

Several countries have similar laws, such as the United Kingdom, Ireland, the Netherlands, Australia, America and New Zealand for instance.

Now, after that little bit of background, we return to the topic at hand. The Council duly promulgated the rules relating to the practising of the veterinary professions. These rules included amongst others, rules relating to canvassing and touting, covering, supersession, advertising, promotion of products and services and articles and editorials. The Council also, at the request of the profession via SAVA and in order to fulfil its obligations in terms of rules 14(3), 14(4) and 14(5) annually published a guideline of tariffs, after obtaining the blessing of the Competition Commission. The guideline of tariffs contained a minimum and maximum range of prices. The minimum tariff was calculated to ensure that a veterinary professional can render a profession service at the standard required by the SAVC, the profession itself, the public and the animals. The maximum tariffs were utilised to adjudicate complaints of overcharging from the public. Provision was made for veterinary professionals to charge less that the recommended minimum under certain circumstances, as charging less than the minimum recommended fee may amount to touting, which is regarded as unprofessional conduct.

To complicate the already complex situation of modernising our rules, an aggrieved young professional during 2012, accused of touting by his colleagues, referred a complaint to the Competition Commission. The complaint was that the Council engaged in price fixing, which is a contravention of the Competition Act, by publishing the guideline of tariffs and by enforcing the minimum tariffs by entertaining complaints of touting against a veterinary professional if he/she charges less than the minimum recommended tariff, unless he/she could justify it. Instead of justifying his actions, the vet referred a complaint to the Competition Commission. The matter was duly defended by the Council at a huge cost, as competition lawyers are few and far between and therefore commanding specialist fees. Council resolved to defend itself against the complaint based on legal advice obtained from a very well known legal firm, as Council was extremely concerned about the impact an adverse finding would have on the profession, particularly on rural veterinarians who are by and large responsible for the safety of the food that we eat.

What Council feared, came to pass during November 2013. The Competition Commission disregarded its previous advices and decided to refer the dispute to the Competition Tribunal for adjudication as it considered the Council to be a cartel engaged in price fixing. It simultaneously extended an offer to Council to enter into a settlement agreement. Such an agreement entails that the Council and the profession must immediately mend their erroneous ways. The penalty for price fixing and/or collusion is quite steep. An administrative fine of up to 10% of the gross annual income of each person/entity engaged in price fixing or collusion can be levied by the Competition Tribunal. You may remember the spectacular fines levied on the bread and construction industries!

Council, taking into consideration the recent judgments by the Competition Tribunal, decided to accept the offer to settle, as adverse as the impact on the profession may be. The Competition
Commission firmly believes that measures other than price can be introduced to ensure compliance with minimum standards of service.

That brings us to the reasons for today’s gathering. In order to modernise (keeping up with the times, so to speak) fulfilling Council’s strategic plan and to simultaneously comply with the Competition Act, several of our rules will have to be amended or withdrawn. The medical and legal professions, which had rules very similar to ours, already went through this long and difficult procedure with the concomitant commotion and upheaval in the professions.

We can assume that the upcoming amendments will be earth moving and very difficult to stomach, as they will usher in a way of doing things that will be very new and very scary and strange to people used to doing certain things in a certain way. For example, sometime during last year, whilst I was still a practising attorney, a much, much younger colleague told me on occasion: “What didn’t you understand when I said I would call you? I do not want to speak to you!” That was after I telephonically requested feedback in a matter and did not hear from the young man for a period of 3 days. It was quite a shock to my system. At the time when I qualified, we were inculcated with the ethical value that you will (no excuses) respect more senior practitioners. How times changed! The point I am making is that we are living in a different world that we grew accustomed to and comfortable in and that the veterinary profession is not the only profession which has to adapt or die, so to speak. We will have to think innovatively and pro-actively to overcome this very real challenge to the veterinary profession. For that very reason, the constructive input of each and every veterinary professional is required. The Council made each and every conceivable argument over a period of approximately two years to sway the Competition Commission, to no avail. We are not here today to regurgitate all the arguments against the impending changes, those are water beneath the bridge and we cannot change the situation. We are here to address the changes in an innovative and responsible manner in order to best preserve the exemplary image of the profession and the interest of the animals concerned, who cannot speak for themselves.

The rules most obviously in contravention of the Competition Act are the rules relating to canvassing and touting, advertising and promotion of products and services and articles and editorials. I will point out which rules pertain to modernisation or to the Competition Commission as we go along!

Let us deal with each rule on its own! The amendments to the rules will obviously be followed with relevant amendments to the concomitant clauses of the CoCP. Please bear in mind that this discussion is by no means an answer to all the questions posed! It is intended to alert the profession of impending changes and to get crucial input from the profession.

At the outset, you must bear in mind that a great number of the profession, as well as the Competition Commission believe that;

1. competition is good and should not be stifled, particularly competition in regards to prices, as it will benefit the consumer;
2. advertisements positively contribute to competition and allows the public to make informed choices about the where, when and how they wish to utilise a service, and importantly, at which rate; and

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2. advertisements positively contribute to competition and allows the public to make informed choices about the where, when and how they wish to utilise a service, and importantly, at which rate; and
3. the offering of discounts per se does not mean that the standard of service will necessarily be compromised, the argument being that a professional will know that he/she still has to render a professional service, notwithstanding the price or discount offered.

We have also, through queries raised by members of the profession, been alerted to the fact that some practices and rules may be outdated. It is a commonly known fact that the law lags behind and cannot keep up with modernisation. It is particularly true in the fast changing and developing world in which we live.

Rule 2: Services pertaining specially to veterinary professions, (Modernisation)

2.” For the purposes of the Act -

(a) the diagnosis, treatment, prevention of, or advice on a disease, physiological or pathological condition in an animal;
(b) chemical restraint of an animal, which includes general, standing, and/or regional anaesthesia, as well as chemical immobilisation of an animal;
(c) a surgical or dental operation or procedure on an animal; and
(d) the prescribing or administration of medicine to an animal;

shall be deemed to be services which pertain specially to a veterinary profession”

With the advent of new technology, medical and/or veterinary devices and lay people having access to these without any legal implications for them whilst intruding on services that should pertain to veterinarians only, it may be time to broaden the scope of the services pertaining to the veterinary professions. Your inputs would be welcomed!

Rule 4: General principles

4.(1) “ A veterinary professional shall base his/her personal and professional conduct thereon that -

(a) he/she is a member of a learned and honourable profession and is required to act at all times in such a manner as will maintain and promote the prestige, honour, dignity and interests of the profession and of the persons by whom it is practised;
(b) he/she is morally obliged to serve the public to the best of his/her ability and in the light of the latest scientific knowledge;
(c) he/she will not seek any personal advantage at the expense of any colleague in the profession;
(d) he/she will not permit himself/herself to be exploited in a manner which may be detrimental to an animal, his/her client, the public or the profession; and
(e) he/she shall, as far as it is within his/her professional ability -

(i) not refuse treatment to an animal; and
(ii) not abandon the treatment of an animal under his/her professional care unless he/she is satisfied that he/she has done his/her utmost to safeguard the welfare of the animal concerned.
(2) A veterinary professional shall keep himself/herself informed of the laws which affect him/her in the practising of his/her profession and shall, as far as it lies in his/her power, assist in the application of those laws.

(3) All persons practising veterinary professions are working for the same good cause, irrespective whether they are in private practice or in the service of an employer, and they shall therefore co-operate with each other and the authorities concerned to promote that cause.

(4) A person who practises a veterinary profession shall refrain from expressing any criticism in public through which the reputation, status or practise of a colleague in the profession is or could be undermined or injured, or through which a reflection is or could be cast on the probity, skill, methods or conduct of such colleague.

(5) The place at or from which a person practises a veterinary profession shall comply with the applicable minimum standards for a consulting room, or an animal hospital, as the case may be, which are specified in these Rules, and be registered with Council”.

In order to get the ball rolling, the Review Committee decided to define the concept of professional and unprofessional conduct in order to move away from price in order to maintain certain expected standards of service and to shift the emphasis towards professionalism. These are still in draft format, pending input from the profession. Here they are, warts and all!

**Professional conduct**

A veterinary professional shall comply with the following fundamental principles:

(a) **Integrity** – to be straightforward and honest in all professional relationships. The principle of integrity imposes an obligation on all veterinary professionals to be straightforward and honest in all professional relationships. Integrity implies fair dealing and truthfulness.

(b) **Objectivity** – to not allow bias, conflict of interest or undue influence of others to override professional judgments.

(c) **Professional Competence and Due Care** – to maintain professional knowledge and skill at the level required to ensure that a client receives competent professional services based on current developments in practice, legislation and techniques and act diligently and in accordance with applicable technical and professional standards.

The principle of professional competence and care imposes the following obligations on veterinary professionals:

- To maintain professional knowledge and skill at the level required to ensure that clients receive competent professional service.
- To act diligently in accordance with applicable technical and professional standards when providing professional services. Competent professional service requires the exercise of sound judgment in applying professional knowledge and skill in the performance of such service.
- The maintenance of professional competence requires a continuing awareness and an understanding of relevant technical, professional and business developments.
• Continuing professional development enables a veterinary professional to develop and maintain the capabilities to perform competently within the professional environment.

(d) Confidentiality – to respect the confidentiality of information acquired as a result of professional and relationships and, therefore, not disclose any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to disclose, nor use the information for the personal advantage of the veterinary professional or third parties.

e) Professional Behaviour – to comply with relevant laws, regulations, rules and Code of Conduct and Practise and to avoid any action that discredits the veterinary profession.

The principle of professional behaviour imposes an obligation on all veterinary professionals to comply with relevant laws and regulations and avoid any action that the veterinary professional knows or should know may discredit the profession. This includes actions that a reasonable and informed third party, weighing all the specific facts and circumstances available to the veterinary professional at that time, would be likely to conclude adversely affects the good reputation of the profession.

Unprofessional conduct

Unprofessional conduct on the part of a veterinary professional shall include, inter alia, the following acts and omissions:

a. without reasonable cause or excuse, failing to perform professional work, or work of a kind commonly performed by a registered veterinary professional, with such a degree of skill, competence, care or attention, or of such a quality or standard, as in the opinion of the Council may reasonable be expected;

b. in any way directly or indirectly assisting, allowing or enabling an unqualified person to charge, recover or receive any fee or derive any remuneration for or in respect of or in connection the performance of any professional work which only a veterinary professional is qualified by law to perform, or in any way conniving at any arrangement, agreement or understanding whatsoever whereby any such fee or remuneration is or shall be charged, recovered or received by any such unqualified person, with the intention to derive financial benefit from any such conduct;

c. non-payment after demand of any subscription or any fee, levy or other charge payable to the Council and non-submission of any relevant records requested by Council;

d. any contravention of the provisions of the Act or of these rules or of the then current Code of Conduct and Practise;

e. neglecting to give proper and reasonable attention to his/her clients and/or patients;

f. failing adequately to supervise his/her staff,
g. overreaching or over servicing a client or providing services/treatment which are not strictly required to treat the condition of the patient or charging of a fee which in the view of the Council is unreasonably high, having regard to the circumstances of the matter,

h. failure to comply with an order, requirement or request of the Council and/or the Registrar;

i. referring work, the performance of which is reserved by law to a veterinarian, specialist veterinarian or para-veterinary professional to a non-registered person and/or authorised person.

You will notice that the current rule 4 overlaps to a certain extent with the draft definition of professional conduct.

With the exception of subrule 4(5), which provides that the place at or from which a person practises a veterinary profession shall comply with the applicable minimum standards for a consulting room, or an animal hospital, as the case may be, which are specified in these rules, the current rule 4 could be replaced by a definition in similar vein to the draft definitions. In view of the fact that limited service practises may very well be allowed in terms of the requirements of the Competition Act, as opposed to the current comprehensive services, with its concomitant costs, that each registered veterinarian must be able to provide, it is probably necessary to rethink the issue of minimum standards for each kind of conceivable practise. From this perspective the active input from each practising veterinarian is a necessity.

Subrule 4(d) will be dealt with under Rule 6, as they overlap to a certain extent.

The Competition Commission confirmed that the Council may set the minimum standards for the profession. We have been warned not to conflate price with quality or a particular standard of practise. That said, we are can raise the minimum standards if need be, but great care has to be taken not to set the minimum standards so high that it will preclude new entrants from entering the market. The most important fact is that all veterinarians are members of a profession.

In Medieval times only three professions were recognized: theology, medicine, and law. But when formal veterinary education was introduced in 1761 in Lyon, France, a veterinary profession was founded, and it was made clear it was not to be a trade nor an occupation.

An internationally accepted definition of a profession reads as follows (Gruess, 2003 - abbreviated):

“An occupation whose core element is work based upon the mastery of a complex body of knowledge and skills - which is used in the service of others.

Its members are governed by codes of ethics and profess a commitment to competence, integrity and morality, altruism, and the promotion of the public good within their domain.
These commitments form the basis of a social contract between a profession and society, which in return grants the profession a monopoly over the use of its knowledge base, the right to considerable autonomy in practice and the privilege of self-regulation.

Professions and their members are accountable to those served and to society”.

Rights and privileges are therefore not inherent, but are granted by society in return for certain behaviours and skills, and the social contract implies that we are accountable to both our patients and to society for our actions and our services. Also for what happens later – to animals, man, products and economy.

Professionalism is described as being the skill, good judgment, and polite behaviour that is expected from a person who is trained to do a job well, with the opposite being “unprofessional behaviour”.

Thus “Professionalism is more than just doing your job”.

As custodians of animal welfare, veterinary professionalism is defined as being able to balance the requirements and expectations of their clients, the animals under their care, society and the veterinary practice that provides their employment.

They must beware these two of the “Seven Deadly Social Sins” formulated by Mahatma Gandhi in 1925, being, Business without morality (ethics), and Science without compassion.

The Veterinary Profession as a whole must take “ownership” and be a dedicated and committed partner of the SAVC in order to protect and guard the right of self-regulation of the profession and to be at all times part of the “solution” in achieving excellence in and quality of veterinary services now and in the future.

**Rule 6: Acceptance and payment of commission (Modernisation)**

6.(1) Subject to rule 6 (2) a veterinary professional shall not -

(a) pay or offer any commission to any person as a consideration for clients that are referred to the veterinary professional, by such person;

(b) accept any commission from any person as a consideration for referrals of any clients by such veterinary professional to such person;

(c) share with any person, fees charged for a service unless -

   (i) such sharing is commensurate with the extent of such other person’s participation in the rendering of the service concerned; or

   (ii) he/she is a veterinary professional associated with the veterinary professional as a partner, shareholder, employee or locum tenens; and

(d) charge or accept any fee for the examination of an animal from both the buyer and the seller of that animal or both the insurer and the owner of that animal.

(2) The provisions of rule 6 (1) shall not be so construed as to prohibit a veterinary professional from paying to a debt collection agency any commission in respect of debts which are collected by such agency on his/her behalf; or
(b) from accepting any royalty or similar compensation in respect of an article or product to which he/she holds the patent rights.”

Subrule 4(1)(d) provides that a veterinarian shall not permit him/herself to be exploited in a manner which may be detrimental to an animal, his/her client, the public or the profession. Rule 6 deals with the prohibition of payment of commission to veterinary professionals under certain prescribed situations. These rules may need to be broadened to deal with the situation down on the ground, in that veterinary professionals are increasingly being employed by co-operatives, manufacturers of veterinary medicines and foodstuffs. From the complaints that we receive, I can only surmise that some of these veterinarians find themselves in a quagmire of ethical dilemmas.

Rule 7: Canvassing and touting (Competition Commission)

Rule 7: Canvassing and touting

7.(1) Nothing in these rules shall be construed as authorising a veterinary professional to canvass or tout, directly or indirectly, for work commonly performed by a veterinary professional.

(2) For purposes of rule 7(1) a veterinary professional will be deemed to be canvassing or touting for work, but not limited thereto, if he/she -

(a) approaches a person who is not a client with a view to persuade such a person to make use of his/her professional services;
(b) solicits custom or work directly from any person;
(c) with a view to attract clients, grants or undertakes to grant any person, firm, association or other body, a discount on the fee usually charged for a service;
(d) makes unsolicited visits or telephone calls or sends unsolicited letters or printed material to any person, with a view to establishing a professional relationship with such a person; or
(e) enters into an arrangement with any person, whether employee or not, for the introduction of a client to his/her practice; but this will not apply to any arrangement between a veterinary professional and another veterinary professional for the referral of work in the normal course of either’s practice.

(3) the provisions of rule 7(1) and 7(2) shall however not be construed so as to prohibit a veterinary professional -

(a) from directing letters or printed material to a person to whom he/she has rendered professional services during the preceding three years, or to colleagues in the profession; Provided that such letters or printed material shall be contained in an envelope on which the names and addresses of persons to whom it is directed appears; and
(b) from delivering a lecture or speech or publishing any report, interview or article or permitting the publication thereof in a bona fide attempt to save animals in a specific area during an emergency situation.”
The entire rule, with the exception of subrule 7(2)(e) (indicated in green), is obsolete, unless a definition of “touting” can be given which will be acceptable to the Competition Commission. Subrule 7(2)(e) (indicated in green) can be moved to Rule 6.

Veterinary professionals are not allowed to tout or canvass, directly or indirectly, for work commonly performed by veterinary professionals. This rule will change significantly, as would rules 15, 16 and 17, which relate to advertising. We will have to look very carefully at the definition of the words “touting” and “canvassing” in conjunction with the Competition Commission. In principle we should accept that henceforth veterinarians will be able to advertise their services and perhaps even their prices, which in turn will allow the public the freedom to make an informed choice about which veterinarian he/she wants to treat their animals. We will have to take great care to ensure that minimum standards of service are not being compromised, as it is very clear from the complaints received by us, that the public wishes to receive sterling service, irrespective of the price charged. Clients will have difficulty in understanding that a spay from a bakkie which costs R 50-00, will of necessity entail much graver and more side effects than a spay conducted from an adequately stocked and equipped theatre, with resuscitation equipment at hand. The Competition Commission is surely of the opinion that the same standard of care can be given in such an example.

You will have to bear in mind that though a client may pay for a Golf, he/she will still require services equal to that of a Rolls Royce, which is where the Council come in!

Rule 8: Covering (Modernisation/Competition Commission)

8.1) A veterinary professional shall not -
(a) enter into a partnership in his/her practice with another person;
(b) offer a professional appointment in his/her practice to another person;
(c) employ another person in a professional capacity at his/her practice; or
(d) share his/her waiting and consulting rooms with another person;
unless such other person is also registered or deemed to be registered in terms of the Act to practise a veterinary or a para-veterinary profession, as the case may be.

2) Subject to rule 8 (3) a veterinary professional shall not
(a) place his/her professional knowledge at the disposal of a member of the public or a lay organisation; or
(b) be involved in co-operation or collaboration with a member of the public or a lay organisation;
if unlawful or irregular practices are or may be encouraged thereby or it may adversely affect a veterinary professional.

3) The provisions of rule 8 (2) shall not be so construed as to prohibit a veterinary professional from rendering assistance under the circumstances concerned to a member of the public or a lay organisation in an emergency in order to save a life or to prevent suffering: Provided that the person concerned shall as soon as possible thereafter notify the Council in writing of the relevant circumstances."

This rule may come under the scrutiny of the Competition Commission, as it may be viewed as anti-competitive, as the Competition Commission’s mandate is to open up markets. That said, however, the legal and medical fraternity thus far have the same rule and it seems to have survived up to now.
Rule 10: Use of veterinary medicine (Competition Commission)

10(1) “Whenever a veterinary professional, administers medicine to an animal or prescribes the administering thereof, he/she shall satisfy himself that the administering thereof is justified with due allowance for the benefits and risks which that medicine may hold for -
(a) the animal to which it is administered;
(b) the person by whom it is administered; and
(c) the consumer of the products of that animal if residues of the medicine concerned should be present in those products.

(1A) To tranquillise, sedate, chemically immobilize or anaesthetize wildlife, any schedule 5 or 6 substance must be administered by a veterinary professional personally.

(1 B) Notwithstanding the provisions of sub rule (1 A) a veterinary professional may prescribe, sell, donate or make available the following substances or medicines for a single purchase:
(i) perphenazine enanthate,
(ii) haloperidol,
(iii) zuclopenthixol acetate,
(iv) diazepam; and
(v) azaperone

(2) A veterinary professional shall inform the owner of an animal to which medicine is administered, fully with regard to -
(a) the application and effect of and precautionary measures in connection with that medicine; and
(b) the period, if any, during which the products of that animal are to be withheld from human consumption.”

The amendment of rule 10 on 8 June 2012 in Government Gazette number 35414 which added a requirement that a veterinary professional must personally administer any schedule 5 or 6 substance to tranquilise, sedate, chemically immobilise or anaesthetise wildlife attracted a lot of controversy, mainly from the game owners, as they wish to dart their animals themselves. This is currently the substance of High Court Action brought against the Council. I may perhaps just mention that this issue was referred to the Competition Commission in 2010 as being anti-competitive and restrictive, but the complaint was dismissed.

Rule 11: Supersession (Modernisation)

11. “A veterinary professional shall not examine or treat any animal currently being treated by a colleague in the profession, or advise the owner of such animal on the diagnosis or treatment of that animal unless -
(a) he/she is in terms of rule 9 requested to furnish a second opinion on the condition of the animal concerned;
(b) he/she is unaware of the fact that a colleague is treating the animal concerned;
(c) the colleague concerned agrees that the veterinary professional may take over the
treatment of the animal concerned; or
(d) the client/owner of the animal concerned has requested the veterinary professional
to take over the treatment of the animal concerned, in which case, such veterinary
professional shall notify the colleague concerned thereof as soon as possible; or
(e) he/she applies emergency treatment on the animal concerned, in which case -
   (i) the veterinary professional shall ascertain beforehand that the colleague
   concerned is not available to apply such emergency treatment; and
   (ii) the veterinary professional shall notify the colleague concerned of the nature
   and extent of the emergency treatment applied.”

We need to ascertain whether this rule in its current format is still relevant. Your input would be valued!

Rule 14: Approximate fees (Modernisation in view of the fact that the Guideline of Fees will not be published in future.

14.(1) “A veterinary professional shall inform the person in charge of an animal in respect of
which a service is to be rendered beforehand of the approximate fee which he/she
intends to charge for such service -
(a) when so requested by the person in charge of the animal;
(b) when such fee exceeds the fee usually charged for such service; and
(c) when a service is required in addition to the original service anticipated.

(2) Any veterinary professional claiming payment from a person in respect of any service
rendered by him/her shall furnish such person with a detailed account within 30 days
after being so requested by such person.

(3) A person who has been so furnished with such detailed account may, in writing, apply to
the Council to determine the amount which, in the opinion of the Council, should have
been charged in respect of the service to which the account relates.

(4) The Council shall, as soon as possible after receipt of such application, afford the person
who furnished the account concerned the opportunity to submit to the Council in writing
his/her case in support of the amount charged.

(5) The Council shall, after consideration of the case, determine the amount that in its
opinion should have been charged for the service to which the account related and
notify the applicant and the person who furnished the account thereof in writing.

(6) The Council’s decision is final.”

As you all know by this time, the Guideline of Fees will not be published again. This leaves the
profession with a void, not necessarily at the lower end of the scale, where market forces will
probably force out those who deliver substandard services at a lower fee in order to attract, but at
the higher end and where we receive complaints of overcharging. We need to come up with an
innovative mechanism to adjudicate complaints of overcharging. We can possibly look into a question of over servicing than overcharging.

I want to add a very stern word of warning to the profession as a precautionary measure and in your own interest. Please do not get together and decide in groups what fees to charge for a number of practices or within a particular geographical area. This conduct will constitute collusion and direct price fixing. Each and every practice engaged in such an arrangement/agreement may be fined up to 10% of its gross annual income (no deductions taken into consideration). Please refrain from doing so!

Rules 15: Advertising (Competition Commission)

15.(1) A veterinary professional may advertise his/her services, products and facilities or permit another person to do so without limitation on the size, format, artistic or literary style: Provided that the advertisement complies with the provisions of these rules and shall in no way compromise or impair any of the following, namely -
(a) the client’s freedom to consult a veterinary professional of his/her choice; and
(b) the good reputation of the veterinary profession.

(2) All advertising by a veterinary professional shall be in good taste with regard to content, prominence and medium and may not be offensive to any cultural, religious or linguistic community or be contrary to the spirit of the code of conduct of the veterinary profession.

(3) Subject to the provisions of rule 15(7) and 15(8) the content of an advertisement shall not be limited to -
(a) a description of -
(i) the nature of the services rendered; and
(ii) the products, merchandise and foodstuffs stocked and sold;
(b) the address at which such services are rendered and the products, merchandise and foodstuffs sold;
(c) the times the services are provided;
(d) the name of the veterinary professional concerned; and
(e) a logo.

(4) An advertisement describing a specific veterinary animal care service direct to the public shall contain the telephone number of the veterinary professional concerned as well as information regarding emergency and out-of-hours service.

(5) A veterinary group, however, may advertise without any limitation on the content of an advertisement subject to the requirements of rule 15(7): Provided that the advertisement concerned has the approval of the majority of its members.

(6) The responsibility for ensuring that a group advertisement complies with the standards required by these rules shall be borne by the Chairperson or President, and executive committee of the group and in all other cases by the veterinary professional submitting the advertisement.

(7) Advertisements shall not -
(a) be misleading in any respect;
(b) compare the quality of services, products, merchandise and/or foodstuffs provided, the standards of facilities and/or the knowledge or expertise of a veterinary professional with that of another veterinary professional or the veterinary profession generally, nor may it claim to be superior in any respect;
(c) criticise the quality of services, products, merchandise and/or foodstuffs provided by another veterinary professional; and
(d) have fees and incentives that relate to any services that pertain specially to the veterinary profession as the subject of any advertisement. Prices of products, merchandise and foodstuffs sold and services that do not pertain specially to the veterinary profession rendered at the facility may, however, be advertised. Incentives including the word "discount" may be used when advertising such products, merchandise and foodstuffs and non-veterinary services provided that the advertisement clearly states that incentives and discounts do not apply to any services that pertain specially to the veterinary profession.

(8) No veterinary professional other than a specialist registered as such with the Council may claim that he/she is a specialist or an expert in a particular field in any advertisement.

(9) A veterinary professional may advertise that he/she has a particular interest in a certain species, organ or discipline: Provided that the advertisement indicates that the veterinary professional is a general practitioner with such a particular interest.

(10) A veterinary professional shall not collude with any person to ensure that his/her advertisement appears adjacent to an article and/or advertorial published by such person if the said article and/or advertorial would be in contravention of these rules if published by a veterinary professional.

(11) If a veterinary professional is identified in any way in an article, then an advertisement by such veterinary professional may not appear on the same page as the article.

(12) A veterinary professional shall not utilise a pop-up or pop-under advertisement in connection with computer accessed communications other than on the veterinary professional's own web site or other internet presence.

(13) A veterinary professional may refer to the Guideline of Tariffs published on the Council's websitewww.savc.co.za and may create a link to the relevant webpage in computer accessed communications.

The subclauses indicated in red are obsolete. In subclause 3 the word “not” should be added (indicated in blue).

If the principle of single service practises is accepted, subrule 4 should indicate that the veterinarian must inform his/her client of the after-hours arrangements and that he/she may not be equipped to deal with emergencies as a result of post operative complications. This must be brought pertinently to the client’s attention by billboards, inclusion on all stationary, the invoice and clinical records.

A veterinarian will be able to pronounce on the standards of care he/she will provide, as well as the facilities and equipment available at his/her practice.
In principle this rule is very broad and allows veterinary professionals to advertise. The problem occurs with Rule 7(d) which provides that an advertisement may not contain any fees or incentives related to veterinarian services. This requirement is obsolete in modern times and anti-competitive.

It may very well be that the publication of discounts are damaging to the image and stature of the profession. Not publishing prices do however restrict a consumer in making informed choices, which is the guiding criterium in this issue.

**Rule 16: Promotion of products and services (Competition Commission)**

16.(1) “Subject to rule 16 (2) the name of a veterinary professional shall not in any manner whatsoever, whether direct or indirect, be used –

(a) as part of the name of any business or organisation;

(b) in appeals to the public for contributions in aid of animal welfare;

(c) in an advertisement to promote an article or a product which is or may be used in connection with the practising of a veterinary profession or a para-veterinary profession or the feeding, treatment or care of animals;

(d) in an advertisement in connection with any place at which animals are sold or boarded, or is owned, controlled or managed by himself or another person; or

(e) in an advertisement in connection with any business or trade in which he/she has an interest or is employed in a capacity other than as a veterinary professional, if it is used thus in conjunction with his/her professional title or qualifications or his/her professional address or telephone number.

(2) The provisions of rule 16 (1) shall not be so construed as to prohibit -

(a) a veterinary professional from promoting a particular product or service in a bona fide attempt to save animals in a specific area during an emergency situation;

(b) a veterinary professional who signs a letter regarding a veterinary matter on behalf of his/her employer, from indicating his/her professional title and qualifications with his/her signature; or

(c) a veterinary professional from stating his/her name and professional title and qualifications in a document which is required in terms of the Companies Act (Act No.19 of 1973), in respect of a company of which he/she is a director; or

(d) the use of separate advertising boards that indicate products stocked or used by the veterinary professional at his/her registered veterinary facility. Provided that such boards shall not contain the name of the veterinary professional or name of the registered veterinary facility or any other words that are misleading, confusing or conveying a false perception to the public or that may be construed as endorsement of such a product.”

Careful consideration should be given as to whether any part of this rule should survive, as it is mostly obsolete (by being anti-competitive at face value)
Rule 17: Articles and editorials (Modernisation and Competition Commission)

17. “A veterinary professional is allowed to state his/her name, qualifications and his/her capacity in articles or editorials published in the printed media. However, the address, telephone numbers and/or name of the veterinary facility from which the veterinary professional practises may not appear in such an article or editorial”.

The requirement that a veterinary professional may not display or mention his/ her practise address, telephone numbers and the name of the facility from which he/she practises in an article or editorial in the printed media is truly outdated.

Rules 34 to 38: Discipline and inquiries

To guarantee that the ethical standards of the profession are met, the SAVC has always laid down Rules for professional conduct, and the applied disciplinary measures where needed. I am not going to bore you with all these rules. I would however like to bring a few matters to your attention.

In the past focus may have been seen to be placed on the guiding Rules - the actual advertisement or proof of touting etc.

In future SAVC will focus more on enhancing standards of professionalism: If the map is removed, that will be the compass to refer to, when SAVC has to adjudicate between colleagues.

The questions to answer to will be how did the actions in question improve the profession/the availability of veterinary service/ the delivery of primary animal health care/ the vision and mission of Council/ the oath?

As well as - Was harm done to the profession / colleagues/ the public /the patient/ the economy?

If in the name of free trade and competition, the livelihood of the practitioner in the town next door is destroyed, and there is now no veterinary clinic anymore, is that ethical? This is a question that the profession has to decide for itself!

An issue which regularly crops up in the process of enquiry is the submission of records to the Council in terms Rule 26(5) when the Council requests these as a matter of course. Apart from the fact that you are obliged to keep records in terms of rule 26, these records serve to protect you from frivolous complaints by disgruntled clients. If your records are complete and submitted when requested after a complaint has been received, these will serve to exonerate you during the screening process of complaints. This happens in almost 80% of complaints. The benefit for you is obviously that you will not be subjected to a disciplinary inquiry with its concomitant stress and costs. I therefore request you to help us help you!
MINIMUM STANDARDS FOR VETERINARY FACILITIES.

In view of what we just discussed, minimum standards for veterinary facilities may very well be increased in order to ensure that veterinary services remain of a high standard. The Inspections Committee is currently looking into this issue.

REQUEST:

Please provide your input on any amendments to the rules that you think should be amended to me at legaldirector@savc.org.za. Unless we receive input from all of you, the attempt to modernise and revamp our rules will be an exercise in futility!

THE END!

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Prepared by Dinamarie Stoltz, acknowledging with thanks the input of Dr Anne de Vos.

20 February 2014.