

**Transcript of the Public Hearings of the Statutory Review Committee  
on Access to Information and Protection of Privacy**

Date: Monday, August 18, 2014 (3:30 p.m.)

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ATIPPA Committee Representative  
NaLVMA

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**ATIPPA Review Committee Members:**

Clyde K. Wells, Chair  
Doug Letto, Member  
Jennifer Stoddart, Member

August 18, 2014

Nicole O'Brien/Kate Wilson

C. WELLS:

Okay, Dr. Wilson, is it?

K. WILSON:

Yes, but Dr. O'Brien is presenting.

C. WELLS:

Dr. O'Brien, you're going to be presenting?

N. O'BRIEN:

I am presenting, yes. Thank you.

C. WELLS:

If you would, please.

N. O'BRIEN:

So I'm presenting on behalf of NaLVMA which is the Newfoundland and Labrador Veterinarian Medical Association and we're committed to promoting, supporting --

C. WELLS:

So that is not the college, it is the association?

N. O'BRIEN:

It's the association. Yes, there is a difference. The college has made a written submission. And we're committed to promoting, supporting and advancing the veterinarian profession in Newfoundland and Labrador,

and the association promotes public awareness of the veterinary profession, contributes to the betterment of animal health and welfare and promotes public health.

So I thought the best way to sum up kind of what we're trying to get across today is to state our veterinary oath: As a member of the Veterinarian Medical Profession I solemnly swear that I will use my scientific knowledge and skills for the benefit of society. I will strive to promote animal health and welfare, relieve animal suffering, protect the health of the public and environment, and advance comparative medical knowledge. I will practice my profession conscientiously with dignity and in keeping with the principles of veterinary medical ethics. I will strive continuously to improve professional knowledge and competence and to maintain the highest professional and ethical standards for myself and for the profession.

And that comes from the CVMA in 2004. And when we graduate from vet school we're required to state this oath at the time of when we graduate. When we go

through veterinary school, there are courses on ethics, professional conduct, and it's taught to us throughout our whole leading up to our professional career and after we have passed our national boards. The National Boards are required in order for us to be licensed in any place in North America and the National Board includes questions on ethics when they list out their questions. So it would be very similar to passing an exam at the end of law school or medical school.

So the veterinary-client-patient relationship is similar to human health care professionals in that veterinarians obtain health information with the understanding that any information that's shared between the client and the veterinarian is held confidential. And the information is owned by the client and the veterinarians are custodians of that medical health information. The vet-client-patient relationship is a globally-accepted veterinary ethical code and for that reason that communication and that openness that needs to occur between the veterinarians and the clients is understood between all clients and all veterinarians when they are

practicing veterinary medicine.

So some of the things that we'd like to bring forward is that there are several things in place to protect the public. And when I read the veterinary oath, you'll notice that one of the components there was to protect public health. So one of those things is cruelty to animals. As a veterinarian, if we suspect that there is some kind of cruelty to an animal we're required to report that. Another example would be --

C. WELLS:

But when you say as veterinarians, the requirement is in the law or in your veterinarian ethics.

N. O'BRIEN:

It is actually under the *Animal Health and Protection Act*.

C. WELLS:

Okay.

N. O'BRIEN:

Also, under the *Health of Animals Act*, we're required to report to the Canadian Food Inspection Agency a suspicion of a reportable disease. The best example that I can give you is from the most recent

infectious salmon anemia events that we had on the south coast of Newfoundland, where we had six cases of infectious salmon anemia virus, and it's the veterinarians who were the first responders. They were the ones who received the call from the client, whether they were employed by the government or whether they had their own private practice and they were called. And they go out to the site and they ask the questions, they examine the animals, they take their samples, and then they proceed with working up the case to determine what potentially could be causing the issue for the client. If at any point there is a suspicion that it is a reportable disease, such as infectious salmon anemia virus, we are required at that point to contact the Canadian Food Inspection Agency, which is what happened in those six cases.

There are other examples in the terrestrial world, such as Avian Influenza, Mad Cow Disease and various other reportable diseases that have to be reported if we suspect them. The implications of reporting these are quite serious to the producer but it is our job as veterinarians to report that because of protecting

the environment, protecting the public, protecting the industry, protecting the Canadian food for export and trade, because the Canadian Food Inspection Agency has to report to the OIE as well. So for those reasons those things are in place and it is a requirement for us to do so.

The other thing would be, if there was a public health issue. Under the *Human Pathogens and Toxins Act*, we're required that if we suspect that there is a public health issue, we're also required to report under those circumstances. So, those things have already been taken into account by the acts that have been put in place.

So a little bit of history about the vet-client-patient relationship. In 1961, the vet-client-patient relationship was brought into Canada. It was actually adopted from the American Veterinary Medical Association. And it was adopted in Canada so that we can allow for prescribing of medications because the communication between the client and the veterinarian was important to allow for the veterinarian to make the right decisions in

regards to which drug they should prescribe. If it is not a drug, some kind of mitigation strategy. It might be some kind of a surgery or something similar to that, but they would have to intervene. And without knowing the whole history of the animal and everything that goes along with that, as well as the history of the client and their capability to be able to care for that animal afterwards, they needed to have that open communication. So that started in 1961 for Canada but it was already in place for the American Veterinarian Medical Association.

Later on, it was built on and this client trust has now been entrenched in veterinary medicine and has continued, and it is one of the pillars that we believe in as veterinarians, that we're taught for veterinarians, and it's something that we feel very strongly about and is also the College of the Veterinarians, which I'll skip ahead to the Newfoundland and Labrador College of Veterinarians, and I will go back.

So the Newfoundland and Labrador College of Veterinarians, which is our licensing body, and it is

charged with ensuring the practice of veterinary medicine in the province is carried out in a manner that protects public interest. And that's the difference between the association and the college in that they are licensing body and their job is for public interest. The *Veterinarian Medical Act* empowers that the Newfoundland College of Veterinarians can make bylaws, clinical standards, make codes of ethics that outline confidentiality. And according to the Veterinarian Clinical Standards within Newfoundland that was adopted by the college, unless required for the purpose of a clinical inspection or other legitimate action of the college, a medical record is considered confidential record that is accessible only to the owner of the animal or a representative and the attending veterinary clinic.

So if we go back to the previous slide on the vet-client-patient relationship, the vet-client-patient relationship serves to build trust and facilitate honest and comprehensive communication between the client and the veterinarian to ultimately improve the accuracy of the diagnosis and efficacy of treatment. And client trust is essential so that the

clients can be forthcoming with that information. Diagnosis, treatment, mitigation and control strategies will be impacted without this trust and this will not be in the best interest of the public, the industry or the welfare of the animals. By having that communication and that openness between the client and the veterinarian, the veterinarian can act appropriately, quickly make a diagnosis, and be able to act on that diagnosis as quickly as possible, which in some cases does include reporting.

So I'm going to read a little section from the Canadian Veterinary Medical Association letter that was previously submitted to you. That was submitted on July 25th, 2014. And the section that I would like to read is: The vet-client-patient relationship is a fundamental tenant of veterinary medicine. The relationship and the confidentiality that it extends exists to ensure 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 a serious public health or economic problem. One of the main pillars of the VCPR or vet-client-patient relationship 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 diseased detection and mitigation. If this is involved in a reportable disease, there could be a significant risk to animal health and the public health.

So one of the key things that when I read through that, besides what I've already highlighted, is getting back to sharing information with highly trained and licensed veterinary professionals. So it is the licensed veterinary professionals who will take a look at the full picture of the clinical case that they've been presented with and then be able to determine what the next steps might be, whether it is additional testing, whether it is some kind of mitigation strategy such as surgery, or if it is some kind of treatment that's required.

So why are we here? So what's the issue?

C. WELLS:

That's what I'm looking for.

N. O'BRIEN:

Veterinarians in the Province of Newfoundland, there are 113 registered veterinarians in the province. Now, not all of them are currently practicing here; some are just paying their dues and not actually practicing.

C. WELLS:

Can you give some idea of how many are practicing?

N. O'BRIEN:

I can find out for you. And there are 13 that are employed by the government. And the 13 that are employed by the government work with aquaculture, with the Department of Fisheries and Aquaculture and also with Natural Resources which they are large animal veterinarians. And we wear, as I say, all the time, two hats. We have a regulatory role and we have a primary clinical practice. And the main reason for that primary clinical practice is the remoteness and the amount of distance that's required to be able to take care of the animals; whether they be fish, a cow, a pig. And the distance that we have

to take, the attraction of getting veterinarians to live in remote areas and be employed in those remote areas and be able to offer services that would be enough to sustain a practice, all those things come into consideration. So therefore, we do have veterinarians working for the government who practice primary clinical care and they have a vet-client-patient relationship with the clients.

C. WELLS:

How many?

N. O'BRIEN:

There are 13 that's employed with the government.

C. WELLS:

But not all of them are carrying on a private or clinical practice too, are they? Or are they?

N. O'BRIEN:

No. So, nine.

D. WILSON:

Nine.

C. WELLS:

Nine.

N. O'BRIEN:

That have a vet-clinic-patient relationship.

C. WELLS:

Have a vet-client-relationship, okay.

N. O'BRIEN:

And there is a vacant position with us because we are hard to recruit and retain. So if that position was filled then it would be 10. So, the issue that we have with getting access to information requests, ATIPP requests coming into our department, is that sometimes those requests are asking for information that are kept in animal health records that were collected under a vet-client-patient relationship and therefore considered confidential.

In the Act, as I understand it, health professionals, human health professionals, are exempt from releasing personal health information for humans. And veterinarians do not have that same exemption. So NaLVMA would like to have the same consideration as a human medical doctor in that our medical health records collected under a vet-client-patient relationship are held confidential.

C. WELLS:

By doctors employed by the government?

N. O'BRIEN:

Yes.

C. WELLS:

What's the reason for that? I mean, with human beings, medical practitioners who provide for the health of humans, are dealing with private, personal information of the beings whose health they are providing for. Veterinarians are looking after fish and animals as nice and pleasant as animals may be, but there is no expectation of privacy in a fish or cat for that matter, the individual health of that fish or that cat. So there is a distinct difference between the two. Why, on what basis do you suggest that the same level of protection for information should be accorded to veterinarians as for medical practitioners?

N. O'BRIEN:

Well, they are the owners of the clients. So it would be the owners that would provide the information much the same as a parent with --

C. WELLS:

I know they can provide the information but the information is about a fish or a cat. Neither the fish nor the cat has any expectation of privacy in

its health information. The human has it, not because a brother or a cousin or a father or mother has an expectation of privacy, but the individual does. The individual, that's the patient does. That's a different situation with veterinarians, is it not?

N. O'BRIEN:

I don't see it as different.

C. WELLS:

What expectation of privacy does the owner have?

N. O'BRIEN:

The same as you going into your doctor.

C. WELLS:

Really?

N. O'BRIEN:

Yes.

C. WELLS:

The owner of the fish or the owner of the cat has the same expectation of privacy as I have in relation to my medical information?

N. O'BRIEN:

Yes.

C. WELLS:

Really?

K. WILSON:

I think one of the issues here is that for in order for us as vets to be able to do our job we need the full confidence of the client, of the people we're working with to know that they can reveal. Sometimes the information people tell us isn't something, it may be not something they're proud to say and that's what allows us to get to, for example, to get to a diagnosis. So I think the issue is more, not so much the privacy protection per se of those people but more allowing us to be able to do our job. And if someone comes to us about an animal knowing that this may not be in confidence, we may not get the full story from them. And it may make it difficult for us to do our jobs.

C. WELLS:

So if I was concerned about my dog or my cat or my fish, I might not disclose to you all the information I have if I was coming to you for help?

K. WILSON:

Or if you were a producer, say.

C. WELLS:

What do you mean a producer?

K. WILSON:

Like, sorry, like a farmer.

C. WELLS:

Oh, like a farmer or a fish farm operation?

K. WILSON:

Yes. Or a dairy farm or, yes.

C. WELLS:

Well that's protected under the statute already.

That's already protected. That's a commercial interest. Competitive and interest that may harm a third party producer is protected under the statute already.

N. O'BRIEN:

Are you referring to section 27?

C. WELLS:

Yes.

N. O'BRIEN:

Yes. And we have gone back several times stating that that was the reason for not releasing the information, was several different components of section 27. But the requests still continue and there are still a lot of dialogue back and forth with regards to the requests.

C. WELLS:

So, what we're dealing with here is nine of 113 members, that's all?

N. O'BRIEN:

That's correct.

D. LETTO:

Could you help us understand, we have talked about this in terms of the, not the theoretical but the higher level, but let's get down on the ground level. These provincial employed veterinarians, what would a typical, not practice be, but they've got their government duties, I presume, and their other stuff. Could you paint a picture, maybe a general picture, of what it is that they do?

N. O'BRIEN:

Sure. I can speak to that. An example might be a phone call on a Saturday afternoon from a producer or a client, company, and they indicate that the mortalities on their site, they just went out on a mort dive and the mortalities on their site are slightly increased or their animals' acting behavior is different. Could be a pig producer who phones up on a Saturday night to one of the veterinarians and they indicate that there is an issue on their farm.

So that's when the discussion starts between the veterinarian and the client and a plan to go out and to examine the animals and start the workup would occur. So that is part of what we do on a day in/day out basis. We get results back in from the lab. So if we take some blood samples from a cow or we biopsy a lesion on the leg of a --

C. WELLS:

Are you talking about a private now? You run a private practice, do you?

N. O'BRIEN:

No, that could be in a government position.

C. WELLS:

A government position, okay.

N. O'BRIEN:

I am speaking specifically to that. So, they would take a biopsy and then they would get the results back, say, from a biopsy. They would look at the report. They would know the history of the animal. They would take a look at what they had seen when they did their physical examination and then they would determine what the next step might be. So if it was a cow and it was determined that it was some pathology that required surgery well then they would

proceed with doing that surgery. Then once that's done, the cow may require some kind of additional treatment. If it was an abscess, for instance, it may require to have frequent bandage changes, may even require antibiotics in order to treat that infection and then it would require a follow-up examination in order to determine if the treatment worked, if the treatment strategy worked. And that would be what I define as veterinary private practice or primary veterinary care.

D. LETTO:

So if, for example, you're required by law to report, say, the federal authorities reportable diseases and various others, you mentioned Avian Influenza and so on, and there is a public health issue you're required to report all that. What possibly could people want from you under ATIPPA? What would they be? Can you enlighten us maybe a little bit about what some of those requests have been?

C. WELLS:

To begin with, they wouldn't be asking for it from you, would they?

N. O'BRIEN:

I'm asked for like volume of --

C. WELLS:

It would be requested of the department concerned?

N. O'BRIEN:

That's correct, yes.

C. WELLS:

Not from you?

N. O'BRIEN:

Not specifically from us.

C. WELLS:

So then the department would have to decide whether or not it should release it. So that would be a departmental issue. What would be the situation if a doctor, public health officer was called out to Bonavista peninsula to look at circumstances where a number of children in the area were having peculiar symptoms, and they went out and they checked two or three days and they reported and, finally, they came to a conclusion as to it was a particular problem that was likely to spread or was not likely to spread, or whatever, and it was dealt with. If somebody, if the news media asked the Department of Health to provide a report on this, they would have to provide it. Why shouldn't they provide it where animals are concerned, they have to provide it for

fish? Or if they have to provide it for humans, why shouldn't they provide it for animals? They are just doing it generically. They are not talking about the individual children, they are talking about a potential problem in the area?

N. O'BRIEN:

Well, if I was to compare to that, that would be the role of the Canadian Food Inspection Agency in that particular case because we would report to the federal government and the federal government then would take over that case. So, then within the confines of --

C. WELLS:

So ATIPPA would have no bearing on that?

N. O'BRIEN:

That's right.

C. WELLS:

So what, then, were you talking about?

N. O'BRIEN:

Well it could be there are examples of information being requested of the department, such as volume of drug used.

C. WELLS:

If they demanded that of doctors, generally how much

drugs of a particular kind, how much Erythromycin they were using or something as an antibiotic doctors would have to provide that information. Why shouldn't veterinarians?

N. O'BRIEN:

But it wouldn't come from the doctors, it would come from a compiled report. Correct? It wouldn't come from the health records. And in the case of --

C. WELLS:

I don't know what you mean. What else would it come from? The doctors only has the health record of the prescriptions he made and so on. He'd have his records. He'd report that he did 233 prescriptions for particular antibiotic during the year or whatever. Or in that region or whatever.

N. O'BRIEN:

But they would have to talk to all the doctors that prescribed the medication.

C. WELLS:

They may only be looking for one doctor, might be only one doctor in the area. I don't know why veterinary service is any different.

N. O'BRIEN:

I guess, I don't know .... The requests that come in

ask for specific numbers broken down by companies.

C. WELLS:

Who asks that?

N. O'BRIEN:

I don't know. I'm not privy to that information.

C. WELLS:

The government asks you to provide it?

N. O'BRIEN:

It comes in as an ATIPP request.

C. WELLS:

As an ATIPP? It comes into who as an ATIPP?

N. O'BRIEN:

Into the department.

C. WELLS:

And what would such a request be?

N. O'BRIEN:

I'd have to go look that up in order to get more details for you.

C. WELLS:

I'm having a little trouble understanding. See, to begin with, ATIPP doesn't apply to veterinarian medicine, generally. So no private practitioner is affected by ATIPPA.

N. O'BRIEN:

But there are vets works in clinical practice with the government.

K. WILSON:

Within the government.

N. O'BRIEN:

They are really in real clinical practice and they happen to work for the government.

C. WELLS:

And they provide service to the government?

N. O'BRIEN:

They provide services to clients.

K. WILSON:

Yes.

N. O'BRIEN:

I mean this is -- yes.

C. WELLS:

Are they paid salaries by the government or are they paid fee for services by the government?

N. O'BRIEN:

They are paid by the government.

K. WILSON:

Yes.

C. WELLS:

What does that mean, paid salaries or fee for

service?

J. STODDART:

They are government employees?

N. O'BRIEN:

They art government employees.

C. WELLS:

So they are on salary.

K. WILSON:

Um-hmm.

C. WELLS:

They are not paid a fee for service as other vets are?

K. WILSON:

No, the clients are paying but that goes to the government. Dr. O'Brien was referring to this. I mean, part of the reason it goes on here is because we have these large rural areas, there would be no vet services for some of these areas otherwise.

C. WELLS:

So, a government-employed veterinarian in a certain region of the province, maybe in Fortune Bay, would also provide service to individuals as needed and those individuals would pay the government for the veterinarian service?

K. WILSON:

Yes.

C. WELLS:

And somebody would be issuing ATIPPA request for the information as to the kind of service or what that individual did?

K. WILSON:

Yes.

C. WELLS:

Is that what you're saying?

K. WILSON:

Yes.

C. WELLS:

And how many times has that happened?

N. O'BRIEN:

I'd have to check with the department but the numbers are increasing. Do you have them there?

K. WILSON:

I don't but I was just thinking, I mean I think it has come up with the agricultural vets as well.

N. O'BRIEN:

Yes.

C. WELLS:

It is more for aquaculture or agriculture?

N. O'BRIEN:

Both.

K. WILSON:

I was just referring to agricultural. So, there is aquaculture and agriculture.

N. O'BRIEN:

Two different departments.

K. WILSON:

Two different separate departments.

D. LETTO:

It's possible that I missed a couple but the government on its ATIPP site publishes the responses it gives to questions made under ATIPP. And I looked back until, it's probably up to a year ago, and there were nine requests of fisheries and aquaculture regarding, they mostly involved actually salmon or aquaculture sites. I'm thinking maybe three of them might involve some of what you're talking about, letters, e-mails regarding infectious salmon anemia over a two-year period which I presume would provide or request some information you're speaking of. The three-year total of fish farm versus those that died or were rendered, are salmon tested for banned chemicals or other dangerous toxins. So this would

be there the last year, approximately. These are requests that were filed on their website and answered.

C. WELLS:

That was the kind of questions that were asked?

D. LETTO:

These were the kinds of questions. The others were about number of grow-out sites that were closed and were subsequent available for reopening and all the rest of it. I guess what I'm trying to do is get a real firm sense of what it is that people are being asked for. You did give an example; volume of drug use, for example. Is the concern that instead of giving an aggregate number you're being asked about particular clients?

N. O'BRIEN:

Yes. And we don't disagree with having information provided within reason. The issue is having that information coming from veterinarians who are providing primary veterinary care with a vet-client-patient relationship.

C. WELLS:

You missed me. You don't disagree with having the information provided.

N. O'BRIEN:

Within reason.

C. WELLS:

To whom? To whatever would request it?

N. O'BRIEN:

To whoever would request it.

C. WELLS:

But you disagree with it having to come from the veterinarian?

N. O'BRIEN:

That's correct.

C. WELLS:

But it doesn't come from the veterinarian, it comes from the department.

N. O'BRIEN:

Well, it would come from the veterinary records, the animal health records.

C. WELLS:

Oh, I understand that. That's the only place it could come from.

N. O'BRIEN:

Yes.

C. WELLS:

Yes, I understand that. But if you don't disagree

with having it provided, what is it you are disagreeing with?

N. O'BRIEN:

Well, those records aren't really, I mean those records basically have to be accessed by the veterinarian. I mean someone from a department can't just access the records because they are a medical record.

C. WELLS:

So you had to respond to a request from government. From the government department asking you to provide the information. Have you ever said to them, I provided this information to an individual on not as a government employee but providing specific service to an individual, so, therefore, I should not be making it public? I should not be making it available to be made public?

N. O'BRIEN:

I think that's what we're asking for.

K. WILSON:

Yes.

C. WELLS:

No, but have you ever said that to the government when they requested it?

N. O'BRIEN:

Yes.

C. WELLS:

And what's been the response?

N. O'BRIEN:

Well, they come back with more questions and then ask us to look through the number of records that we would have to look through in order to produce a report, a summary report.

C. WELLS:

A report of what?

N. O'BRIEN:

Of whatever the request might be.

C. WELLS:

And does it deal with an individual service that you provided?

N. O'BRIEN:

Yes.

J. STODDART:

And how often has this happened in the last, let's say, two years? I mean you sound very concerned about this, I can tell.

N. O'BRIEN:

I am very concerned about this.

J. STODDART:

Is this a very frequent occurrence?

N. O'BRIEN:

To me, it is very frequent because even though there may be the nine requests, it's the nine requests then that have the conversations that then have the information that needs to be provided in some cases. It's the time spent doing that and not spending time with the clients, providing the veterinarian care that we want to provide, by going through and answering the questions, getting people to understand why going through individual health records and gaining this access, this information, is very concerning.

J. STODDART:

Do you mean individual to the client, that is -

N. O'BRIEN:

Individual to the client.

J. STODDART:

- I guess an organization regulated by the government or somehow provided services for its individual to the client not to the patient, not to the animal treated?

K. WILSON:

Do you mind?

N. O'BRIEN:

No, go ahead.

K. WILSON:

I think something to clarify here is that sometimes when you're dealing with agricultural animals or the aquaculture animals, we might make a reference to when we say patient or client, sometimes we are referring to a group of animals. So it just it seems like that clarification might be necessary that we could be referring to a group of animals are treated as a whole in some situations.

J. STODDART:

Okay. So you have to spend the time then compiling these records from your own personal records that have not been, copies not been sent to the department?

N. O'BRIEN:

That's right. It is not send to the department.

J. STODDART:

Okay, you don't have a requirement where you finish some service at an aquaculture farm, for example, and you have to give an electronic copy of your report to

the department that looks after that?

N. O'BRIEN:

No.

J. STODDART:

So they stay in your records as a veterinarian  
employee of the government?

N. O'BRIEN:

Yes. That's correct.

J. STODDART:

So then you have to compile these forms in relation  
to the access requests of which there are what, nine,  
in about two years you say?

N. O'BRIEN:

Well, according to what you had gathered it certainly  
felt much higher than that to me.

D. LETTO:

And I may have missed some but.

J. STODDART:

But maybe there were some refused.

N. O'BRIEN:

Yes.

J. STODDART:

Do you know how many were then granted? I mean, you  
raised the issue of the confidentiality of your

relationship. There is also section 27.

K. WILSON:

Yes.

J. STODDART:

Do you know how many of these or how many disclosures of information that would involve facts that you received in what you say is a confidential relationship with the client? How many of these would be disclosed to the requester, do you know? I mean, perhaps none of them were.

N. O'BRIEN:

Very minimal. There was either partial disclosure or no disclosure in many cases.

C. WELLS:

Or no disclosure, yes.

J. STODDART:

So, might one conclude from that the department understands that the kind of information that you gather is confidential -

N. O'BRIEN:

That's correct.

J. STODDART:

- probably under section 27 anyway? I am just trying to gauge the size of the problem here. I mean if the

department is not disclosing information that a reasonable person could understand came from you or from the vet, is there then a problem that needs to be addressed by, as you say, a suggested change to the ATIPPA?

N. O'BRIEN:

Well, every time that a request comes in, it's not just simply left at well that's under the vet-client-patient relationship. There is additional information and different challenges that will go along with that request. And they do take significant time and energies in order to do that. And in order to continue to do our job some of the requests that come in under the access to information, they need to go to the companies and ask that information. So they may ask the company. Company X, can you tell me something about this particular thing on your farm? So every time that that request comes into the department and then a letter is written to the company and the company turns around and says no, we don't want to release that information, then it slowly eats away at the openness and communications between the veterinarians working in that department and the client eating away

at that level of confidentiality, because if they are constantly getting - it feels constantly to me, but. If they are getting requests from the department asking to release information and they deny access to that information, then they're going to wonder at what point do I not give the information to the veterinarians anymore.

J. STODDART:

Have any of them said this to you, that if this keeps on we're going to have a problem sharing what's happening to our stocks with you?

N. O'BRIEN:

No one has ever said that to me, no.

C. WELLS:

Doctor, I'm at a loss to understand the concern, really. Are you saying that you're apprehensive that the government going to the farmer or the fish farmer, whatever case may be, and asking for information and they refusing. No, you can't have it. This is my private competitive commercial information or scientific information or whatever, and they say no. You're apprehensive that this might cause the farmer to whom you provided this medical service as a government employee and they paid the

government for the medical service, you're concerned that this might cause them to be apprehensive about the information you're giving.

N. O'BRIEN:

That's one of the levels of concern because if it was held within the vet-client-patient relationship and the health records were considered confidential, then they wouldn't have to ask them to release that information every single time.

C. WELLS:

They ask the information could they get a request?

N. O'BRIEN:

Um-hmm.

C. WELLS:

Somebody asked for something?

N. O'BRIEN:

Yes.

C. WELLS:

They get a tip that they know something. Why would that cause a farmer to believe you have failed to keep the information confidential?

N. O'BRIEN:

I don't believe that we would think -- sorry.

C. WELLS:

That they would think.

N. O'BRIEN:

That they would think that we would fail to keep the information confidential. It is just that it eats away at that relationship every single time that that occurs.

C. WELLS:

Okay. I can't follow that.

J. STODDART:

Can you give us some more examples of an access to information request for which you have been contacted and asked to give information. Give me an example of the type of information that it is and how your advice and your relationship with the clients involved.

N. O'BRIEN:

I guess I would want to get more information on that before I could put something in writing because I don't know at what point now I -- I want to make sure it's accurate. I don't want to give you misinformation.

J. STODDART:

Okay. Well, it would help us to understand your

problem if we knew the type of ATIPPA request, then it is passed on to you because you have some information considered relevant, and then what are you being asked to report on that would fall for you within your confidential?

N. O'BRIEN:

Yes.

J. STODDART:

That would be very helpful to us. I would like to ask another question. Newfoundland is one of many jurisdictions where there are veterinarians employed by the government, and, as you mentioned, there is a federal government that has, I think, perhaps at least a thousand veterinarians. Is that possible? Quite a few anyway.

N. O'BRIEN:

Yes.

J. STODDART:

In the Canada Food Inspection Agency. Do you know how they deal with these issues? Is it the same concern about the confidentiality of veterinarian advice and, if so, how have they handled it? Are you in touch with any of your provincial or federal colleagues about this kind of issue?

K. WILSON:

I don't know if federal vets would be doing anything akin to clinical practice.

N. O'BRIEN:

Yes, they are not doing primary care.

K. WILSON:

They are regulatory.

N. O'BRIEN:

They are regulatory so their role is different.

D. LETTO:

Is the remedy, no matter how impractical it might be in Newfoundland and Labrador, that provincially-employed vets wouldn't do any primary veterinary care?

K. WILSON:

There would be a lot of animals short of care.

D. LETTO:

Fair enough. It would be impractical but that would solve the quandary that you feel that you're facing.

K. WILSON:

Yes. I think there's been moments where I think the government wouldn't have been sorry if private practice vets stepped in in many of these situations but it is not a viable business.

C. WELLS:

Because of the character of Newfoundland population and so on. I just got one other question. You referred to the College of Veterinarians and their regulatory role and their veterinary clinical standards for Newfoundland and Labrador that they have established. And you quoted the part that you have outlined in red.

Did you mean to indicate that this required you to refuse to release medical records, because this seems to me to be internal to the college? What it says is, "unless required for purposes of a clinical inspection or other legitimate action of the college". So, that's unless it is required for the college the medical record is considered a confidential record that is accessible only to the owner of the animal or representative and the attending veterinary clinic. But isn't that solely for application by the veterinary college and veterinarians? I mean the veterinary college can't ask you to provide information as to what you're doing generally, unless it is required for a clinical inspection or other legitimate action of the college.

They can then ask it. But otherwise, they can't ask you for that information. Isn't that what that means?

K. WILSON:

I think it's saying it's breaching our licensing if we give out information from medical records. It is considered unethical.

C. WELLS:

Is that what it says?

K. WILSON:

That's how I see that.

N. O'BRIEN:

Yes.

K. WILSON:

That's part of our code of practice.

C. WELLS:

I'd have to look at it and I did look at it a while ago but to be honest I've forgotten the detail. And I got out there, I downloaded a copy of the Veterinary Clinical Standards and read it and I didn't think that that section did that. I may be mistaken. I may have to take another look at it.

J. STODDART:

But perhaps on that same concern as my colleague,

surely within the Veterinary Clinical Standards for Newfoundland adopted by the college that you're quoting there, it also admits that veterinarians are subject to applicable laws like the ones that are quoted here reporting infectious diseases and toxic substances and cases of cruelty against animals. Your college's regulation acknowledge that you are subject to whatever laws of Newfoundland Canada would apply to you, and if you're an employee of the Newfoundland government you're subject to assist in the carrying out the administration of ATIPPA? I'm just trying to follow your reasoning.

What I'm saying is, your own ethical standards surely do not say that what is considered confidential by a veterinarian means that you don't administer, let's say, the laws of Newfoundland, one of which is access to information.

K. WILSON:

I think that's exactly what ....

J. STODDART:

I mean there is limits to confidentiality to everything, in FIA (phonetic) medical records are confidential but there are exceptions in FIA.

K. WILSON:

And I think you're describing exactly what we're concerned about, honestly.

J. STODDART:

Yes, yes. You're concerned about the consequences of ATIPPA applying and that's negating the characterization of vet records as being confidential?

N. O'BRIEN:

Yes.

K. WILSON:

To me you're describing, you are describing the concern. Yes.

J. STODDART:

The problem. Okay, thank you.

C. WELLS:

I have nothing else and I thank you both for being here this afternoon for making this presentation. We appreciate it.

K. WILSON:

Thank you.

N. O'BRIEN:

Thank you.

(Off the Record)

C E R T I F I C A T E

I, Beverly Guest, of Elite Transcription, of  
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