

Summary of Audit Report

Discretionary Use of Veterinary Medicines, Products Compounded by or for the Prescribing Veterinarian, and Pharmacy-only or Restricted Human Medicines

Background

The legislative framework governing veterinary medicines in New Zealand has altered considerably since the implementation of the Agricultural Compounds and Veterinary Medicines (ACVM) Act 1997. A new regulatory regime has meant many changes for veterinarians and companies importing, manufacturing and/or selling veterinary medicines.

In order to assess the level of understanding of responsibilities and compliance to requirements under the new regime, the ACVM Group Director commissioned the New Zealand Food Safety Authority (NZFSA) Compliance and Investigation Group (CIG) to carry out an audit of a small (11) sample of veterinary practitioners, wholesalers and retailers of veterinary medicines. The 'slice-of-life' audit, which took place in October-November 2003, evaluated the implementation of requirements governing the use of prescription animal remedy (PAR) veterinary medicines and the discretionary use of products on animals including:

- off-label use of registered trade name products
- products compounded by or for the prescribing veterinarian
- pharmacy-only or restricted human medicines.

Covering businesses from Auckland to Invercargill, the audit included assessment of the auditees' understanding of the relevant legislative framework. It also examined the network and advertising practices for the sale and distribution of prescription, pharmacy-only or restricted human medicines for use in food animals.

The auditor was asked to provide recommendations for:

- improvements to relevant standards, specifications and codes of practice
- additional educational requirements
- the level and rationale for future compliance auditing.

Legislative regime

Legislation and standards with requirements relevant to the audit included:

- Agricultural Compounds and Veterinary Medicines (ACVM) Act 1997
- Agricultural Compounds and Veterinary Medicines Regulations 2001
- Animal Products Act 1999
- Veterinarians Act 1994
- *Code of Professional Conduct for Veterinarians*, Issue 2000, Veterinary Council of New Zealand.

The *Code of Professional Conduct for Veterinarians*, issued by the Veterinary Council of New Zealand (VCNZ) in 2000, contains ‘The New Zealand Veterinary Association (NZVA) Code of Practice for the Discretionary Use of Human and Veterinary Medicines by Registered Veterinarians’. This Code was ratified at the NZVA meeting in February 1999, and then was approved by the Director-General under section 28 of the ACVM Act in September 2001. The principles of the Code have been written to comply with current legislation, including the ACVM Act. The Code became part of the legislative framework on its gazetting in 2001, and the passing of the ACVM Act (Transitional Provisions) in 2002 fully enabled the ACVM Act. The provisions and requirements of the Code are hence mandatory under the New Zealand legislative regime. It may be construed as an offence under the ACVM Act to knowingly fail to comply with the Code and other relevant approved codes. The Code was re-published by the VCNZ in 2003 as part of the *Code of Professional Conduct for Veterinarians*, Issue 2003.

Legislative requirements

The ACVM Act specifies that no person may sell or use any agricultural compound or veterinary medicine unless that product is a registered trade name product, is exempt from registration by Regulations made under the Act, or its sale/use is covered by transitional provisions of the Act.

Registered veterinarians are required to use products that are legal under the Act and comply with the conditions of registration. The ACVM Regulations 2001 do allow for discretionary use of veterinary medicines, but only on animal welfare grounds. (The definition of discretionary use includes the off-label use of registered veterinary medicines, the use of human medicines, and the use of products compounded by or for the prescribing veterinarian.)

The legislation requires that veterinarians manage any risks to animal welfare, biosecurity, and trade that may arise from their discretionary use of veterinary medicines. It also sets conditions on discretionary use. The main conditions of discretionary use are as follows:

- Relevant standards and codes of practice must be followed.
- Animal owners must be advised that the use is discretionary.
- The prescribing veterinarian must manage any risks associated with the discretionary use.
- The prescribing veterinarian must not use any product in a way that has been prohibited.
- Where veterinary remedies are compounded by or for the prescribing veterinarian, the prescribing veterinarian is to manage all risks and is responsible for the composition, the efficacy, and the use of the compounded product.

Traders and operators of wholesale distribution, including advertising of prescription, pharmacy-only or restricted human medicines for use in animals, should comply with any relevant provisions and requirements of the legislation. However, some of the provisions and requirements, e.g. the need to manage biosecurity or animal welfare risks, are not relevant. Obviously, the Code is relevant only to the veterinary profession.

AUDIT

Understanding of the legislative framework

Wholesale distribution network operators

National wholesale distribution networks were included in the audit. The networks audited supply veterinary practices and registered veterinarians with a range of agricultural compounds and veterinary medicines, including pharmacy-only or restricted human medicines, and are registered with the Ministry of Health as traders in human medicines.

The firms procure and supply veterinary remedies (and human medicines) in response to specific orders from individual practising veterinarians or veterinary practices. The wholesale firms maintain in stock some high turnover human medicines. The range of human medicines traded is substantial, with 200 - 400 items in stock at the time of the audit. The biggest turnover item is Augmentin 500-mg tablets. It is three to four times cheaper than equivalents registered for use in animals.

The wholesalers occasionally advertise or promote new products and announce special deals that they pass on from manufacturers/suppliers to their own clients. Often, ACVM registration numbers of products traded or advertised were included in the promotional materials issued to sales representatives and clients, whenever available and/or applicable. However, the discretionary use of registered veterinary medicines, compounded products or human medicines was not promoted or advertised in any way.

Some questions about ACVM legislation arose with wholesalers during the course of the audit. The issue of feasibility to develop a niche market for the storage of products prepared by the growing number of compounding firms for a growing number of veterinary practices that use compounded products was raised during the audit. It was suggested that the wholesalers of veterinary remedies would have better storage facilities than most veterinary practices. These products would be compounded for prescribing veterinarians by specialised compounding firms and would simply be stored and despatched for and on behalf of the prescribing veterinarian. In the auditor's opinion, it was not clear if this is permissible.

The auditor noted that veterinary medicines compounded for sale for animals that are not in the prescribing veterinarian's immediate care, or in respect of which all the requirements of veterinary evaluation could not be met, should be registered, unless exempt as a specific group from registration under the Act.

The wholesale representatives were aware of the principal requirements of the ACVM Act. However, they were not aware of the full scope of the Act, its links with other legislation and codes of practice approved by the Director-General. They were not fully aware of the importance of risks posed by discretionary use of medicines in veterinary practice.

Veterinary retailers and persons in charge of veterinary practices

The understanding of the ACVM legislative framework and compliance requirements was varied in this group. Some multi-location or multi-practitioner veterinary retailers run quite independent practices within their larger businesses and, consequently, the level of understanding and compliance differed from person to person. Invariably, however, veterinarians were not aware that Appendix 1

of the Code was approved and gazetted as a mandatory code of practice under section 28 of the ACVM Act. This lack of understanding of the ACVM framework was particularly evident in the case of small animal, single veterinarian practices.

Typically, all veterinarians employed within a practice were considered ‘responsible veterinarians’ under the definition of the Code, in that they all accepted responsibility for the ethical conduct of their clinical practice, including the discretionary use of veterinary medicines. In some instances, one veterinarian within a practice accepted this responsibility.

None of the veterinary retailers included in the audit had formal, documented standard operating procedures that would cover the discretionary use of medicines.

Several veterinary retailers mentioned that the ACVM website was at times inaccurate in its details and links, and it often did not show items they would be most interested in, such as specific conditions of the registration or the labels of registered products. When conditions of registration for some veterinary medicines were examined, the website stated that there were none, but it was known that there were conditions attached to those registrations.

Compliance with requirements for discretionary use

Veterinary practitioners were aware that the discretionary use of medicines was permitted on animal welfare grounds only, and in animals that were in their immediate care.

However, rules governing discretionary use were not complied with on a national basis. The majority of practising veterinarians were not providing the required information to the animal’s owner or agent to indicate that the use of some medicines in the treatment of the animal in their care was discretionary.

Although they indicated they would now consider conveying this information in all cases, some veterinarians thought it might have undesirable effects on their professional relationship with their clients and cause misunderstandings. It was suggested that this requirement might be met in some other way, e.g. a notice could be displayed in the consulting rooms to say that the practice may use some medicines in a discretionary way and in accordance with the NZVA Code of Practice for the Discretionary Use of Human and Veterinary Medicines by Registered Veterinarians.

There is also the difficult issue of the discretionary use of medicines for the sole reason of cost and affordability of the treatment. Although under the ACVM Act, discretionary use is permitted solely on animal welfare grounds, most veterinarians felt that animal welfare and the cost of treatment were often linked and judgements had to be made on a case-by-case basis. In the veterinarians’ opinion, if relatively cheap human medicines had not been available for use, some animals would not have received the required treatment (see ‘Use of human medicines’ below).

Compliance with requirements for veterinary evaluation

The Code (Section B) specifies that the following steps (the veterinary evaluation) must be followed before any discretionary use of products in animals:

- The veterinarian must obtain sufficient information about the animal(s), being animals in the

immediate care of that veterinarian.

- The veterinarian must assess if there is a registered or exempted medicine available for the intended use, which would meet the treatment and animal welfare needs.
- If the discretionary use is justified, the veterinarian must assess if there is a registered or exempted veterinary medicine, which with discretionary use, would meet the treatment and animal welfare needs. If no suitable medicine is available at this stage;
- The veterinarian may use a human medicine or a product compounded by or for the prescribing veterinarian that would meet the treatment and animal welfare needs of the animal(s).

Veterinary practitioners were aware of the requirement for veterinary evaluation. The process described in Section B of the Code has been followed in most circumstances, i.e. sufficient information about the animal and about the availability of registered product was gathered before human medicines or compounded products were used. This process included consideration of the availability of the medicine at the time it was required, its dose concentration, and the cost factor.

However, in no case was the evaluation process documented and details recorded in clinical or other notes kept by the veterinarian. This is not a well-defined requirement under the Code, so it was not noted as a compliance issue during the audit.

The auditor observed that the veterinary evaluation process was at times simplified, incomplete, or not carried out when a decision was made, *a priori*, to reach for human medicines or compounded products. Several veterinary practitioners stated that they were not willing, as a matter of principle, to consider the off-label use of registered remedies during their veterinary evaluation process. On the other hand, there was anecdotal evidence to say that off-label use of some registered medicines, for example Ivermectin-based products, is widespread.

Compliance with requirements on occasion of discretionary use

The Code (Section C) lists requirements to be complied with on each occasion of discretionary use of veterinary medicines, human medicines or specially compounded products.

The requirements of Section C of the Code were substantially followed. Veterinarians ensured that important and required information was conveyed to the animal's owner or agent, and often in writing. Required records were kept by the prescribing veterinarian for inspection for a minimum of two years. For example, the following information was conveyed routinely and often in writing:

- special considerations in regard to operator safety, such as 'use gloves' or 'keep out of the reach of children'
- specific advice that adverse reactions, including the lack of efficacy, should be reported
- details of the treatment (rate, dose etc., name of drug used, name of owner or agent), and the name of the prescribing veterinarian.

However, none of the prescribing veterinarians provided the information that the use was discretionary.

Compliance with requirements for withholding periods

Section C of the Code contains two subsections:

- requirements relating to discretionary use of medicines in animals kept for production of food,

- fibre or other products used by man, and requirements relating to discretionary use in animals **not** kept for production of food, fibre or other products used by man.

Although the requirements are substantially similar, the veterinarian must consider the probability of residues of the medicine occurring in food or other product derived from the animal to be treated. Appropriate withholding times must be established.

The majority of prescribing veterinarians did not consider horses as food animals. Hence, they did not attempt to establish withholding periods to ensure that violative levels of residues did not result. They also did not provide suitable information to owners of these animals regarding the withholding period. When they did establish some withholding times, these primarily aimed at compliance with racing rules.

While this may not be a significant issue with thoroughbred horses, it is quite common to see harness race horses and ponies submitted for slaughter to one of the two New Zealand export slaughterhouses licensed to process horsemeat for export. The horse is clearly defined as a food animal in New Zealand legislation (the Animal Products Act 1999), and consideration must always be given to the fact that they may end up being slaughtered for human consumption.

Compliance with requirements for discretionary use of compounded products

The discretionary use of medicines in veterinary practice includes the use of compounded products. In the New Zealand ACVM legislative framework, where veterinary medicines are compounded by or for the prescribing veterinarian, the prescribing veterinarian is to manage all risks and is responsible for the composition, efficacy and use of the compounded product – including trade and residue considerations. Compounded products may be used only on animals in the immediate care of the prescribing veterinarian. The Code covers this issue adequately in several sections.

The audit found that use of compounded products often does not conform to the rules specified in the Code or the legislation. The provision for the discretionary use of compounded products does not extend to veterinary medicines that have been compounded by veterinarians for sale for animals that are not in that veterinarian's immediate care, or in respect of which all the requirements of a veterinary evaluation have not been carried out. This was not well understood. During the course of the audit, examples of transgressions on a national basis were found. In the auditor's opinion, there are several compliance issues with such a relaxed application of, and approach to, the regulatory requirements.

Several veterinary practitioners interviewed during the audit used compounded products in treatment of animals. The majority of them used somebody else to compound these products. The operators of compounding facilities often do not require prescriptions from the prescribing veterinarians. At times, they compound animal medicines after simple telephone requests. In addition, some compounding firms do not adhere to the prescribed labelling requirements. In some instances, the prescribing firms dictated the dose and formulation of compounded products.

The operations of compounding firms require further examination by the ACVM Group Director. All avenues to improve compliance should be explored, such as information, education and further audits and investigations.

Use of human medicines

It has been recognised that there is an ongoing need for human medicines to be used by veterinarians for animal treatment. To enable the use of human medicines, while ensuring the risks identified in the ACVM Act can still be managed, human medicines have been exempted on the condition they be used by or under the authority of registered veterinarians if requirements specified in the legislation and the Code are met.

The use of prescription, pharmacy-only or restricted human medicines was common in veterinary practices visited during the audit. The range and number of those medicines varied quite significantly, depending on the type of practice, particular therapeutic interests of the prescribing veterinarian, or the availability of remedies registered for use in animals. The availability issue extends to matters such as time, dose, or the recommended route of administration. The use ranged from some 20 to 80 individual medicines.

Most veterinarians mentioned the cost of treatment and unavailability of equivalent medicines registered for use in animals as their main reason for the discretionary use of human medicines in animals in their immediate care. The use of *Augmentin* was the best example of the cost factor, and the use of *Glucosamine* and opiates was the best example of the unavailability factor.

Compliance issues

The audit established that there are some compliance issues to address. Subjects of particular interest, as presented above, include:

- understanding of the legislative framework
- compliance with requirements for veterinary evaluation
- compliance with requirements on occasion of discretionary use
- compliance with requirements as to use of compounded product
- use of human medicines.

The 'key issues', which are serious non-compliances, include:

- the lack of notification/information of the discretionary use
Prescribing veterinarians did not convey to the animal's owner or agent the information that the use of some medicines in the treatment of the animal was discretionary (refer: section B, clause 7 [iii] of the Code).
- the rules governing the discretionary use of compounded products were not complied with in many instances and on a national basis.

The prescribing veterinarians were not requested to provide prescriptions for compounded products. The preparations were ordered by telephone and formal prescriptions were rarely provided or sought. The labelling requirements were not fully met in several cases (refer: section A, clause 2 and 3; section B, clause 4; section C, clause 4; section 6 of the ACVM Regulations 2001).

Education

In many cases, the problems observed in the audit stem from a lack of understanding of responsibilities. The audit identified needs for additional education across all sectors.

Practising veterinarians would benefit from a better understanding of the Code and how it is linked with the ACVM legal framework. Some aspects of the ACVM regime are still misunderstood.

Wholesale traders in veterinary medicines and veterinary traders need to understand more than the main purposes of the Act. They need to understand its links with other legislation and approved codes of practice. Wholesalers were not fully aware of the importance of risks posed by discretionary use of medicines in veterinary practice.

RECOMMENDATIONS TO NZFSA

Additional Educational Requirements: Wholesale Traders

That the ACVM Group Director advises wholesale traders in veterinary medicines, through publication of a special bulletin or other means, on the main purposes of the Act and its links with other legislation and codes of practice approved under the Act. This is to enhance their understanding of the current legislative framework.

ACVM Group response

The ACVM Group has initiated a trader approval programme for those traders dealing in prescription animal remedy (PAR) veterinary medicines. It has promulgated a standard for prescription animal remedies and is in the process of developing the *ACVM Standard for Unregistered Veterinary Medicines Requiring Veterinary Overview*.

The Group has also published a special issue of *AgVetLink* for registrants to make their trading obligations clear. It is intending to publish a further special issue directed at the wider group of traders. Even though it is likely to focus on trader responsibilities for the management of PAR products, it will include guidance on the sale of products for possible discretionary use. In addition, information covering the ACVM Group's expectations of traders is now available on the website (<http://www.nzfsa.govt.nz/acvm/subject/approved-traders/index.htm>). A series of 'frequently asked questions' is being developed for publication.

The Group intends to hold workshops with both wholesale and retail traders of veterinary medicines to make their regulatory obligations clear.

Additional Educational Requirements: Veterinary Retailers and Practitioners

That the ACVM Group Director continues to advise veterinary retailers and practitioners, through its publication of a special bulletin or other means, such as NZVA publications, on the main purposes of the Act and its links with other legislation and, especially, codes of practice approved under the Act. This is to enhance their understanding of the current legislative framework and requirements.

ACVM Group response

The ACVM Group has held a series of workshops across the country for veterinary practitioners. These workshops included guidance to veterinarians who either retail veterinary medicines or who write prescriptions for such products. It is envisaged that the ACVM Group will run such workshops every 12 to 18 months.

The Group has established a section of its website to provide information particularly for veterinarians. There have been special edition *AgVetLink* newsletters published for veterinarians. These will continue to be published at least twice a year.

The ACVM Group is also working on a memorandum of understanding with the Veterinary Council of New Zealand, and it is expected that the associated operational agreements will cover cooperation on standards setting and on information dissemination to veterinarians.

Clarification of Wholesale Storage Requirements for Compounded Products

That the ACVM Group Director clarifies whether it is permissible under the Act for a wholesaler or trader of veterinary medicines to store and despatch products compounded by or for the prescribing veterinarian on the order, and on behalf, of that prescribing veterinarian.

ACVM Group response

In the *ACVM Standard for Unregistered Veterinary Medicines Requiring Veterinary Overview*, which should be promulgated by July 2004, the ACVM Group has expressly stated that it is not permissible to store and despatch specially compounded medicinal preparations.

Provision of unregistered veterinary medicines without appropriate permission and instruction is considered to be a systems failure and serious non-conformance. Specially compounded medicinal preparations may be provided only to the veterinarian who lodged the compounding order or to a person specified in a prescription (including the compounding instructions) from a registered veterinarian. Stocks of such products over and above the amount specified in the order to compound must not be held in stock or sold to other parties. Consideration must be given to the registration of any products routinely compounded and stored.

This will be made clear to traders in the upcoming special addition of *AgVetLink* and the answers to frequently asked questions on the ACVM Group website. The topic will also be on the agenda for future targeted workshops.

Improvements to Accuracy of the Website

That the ACVM Group Director ensures that the accuracy of the website is improved, in that it adequately reflects the conditions of registration for veterinary medicines

ACVM Group response

The ACVM Group has already reviewed its website and made some changes, including the addition of a special area for veterinary advice. It will also consider any suggestions that will make the site more useful. The matter of the accuracy of the conditions information will be addressed as products are updated to the ACVM Act and the label information is made available on line. Advice has been added to the register to advise veterinarians to contact ACVM Group staff with any specific queries in the interim.

Record of Veterinary Evaluation Process

That the ACVM Group Director considers issuing a recommendation or formulating a requirement that veterinary practitioners keep some record of the veterinary evaluation process, for example in the clinical notes, to justify and confirm any discretionary use of medicines not registered for use in animals.

ACVM Group response

Requirements for veterinary records of veterinary consultations linked to prescribing decisions have been incorporated into the *Standard for Prescription Animal Remedy Veterinary Medicines* and advised to veterinarians in the recent workshops.

Treatment Withholding Period in Horses

That the ACVM Group Director advises veterinary practitioners, through its publication of a special bulletin or other means, that 'horse' is listed as a food animal in the New Zealand legislation. Consequently, the discretionary use of medicines in that animal is to include assessment of the necessity for, and establishment of, a suitable withholding period and informing the animal owner or agent to this end.

ACVM Group response

Veterinarians and interested parties have been advised that horses are food-producing animals by way of the special edition *AgVetLink* and the recent workshops. Advice has also been provided on the veterinarians' section of the website. The ACVM Group will continue to advise veterinarians that they have a statutory obligation to provide withholding time information. Failure to do so is a specific offence under section 55 of the ACVM Act. However, it is up to each veterinarian to decide the most appropriate way to impart this information to his or her clients. It may be most inappropriate and untactful in certain circumstances to expressly convey a withholding period for slaughter for human consumption. Nevertheless, the veterinarian must handle the case or impart information that will make adherence to the withholding period likely.

Audit of Compounding Firms

That the NZFSA Director considers initiating a national audit, or individual audits, of firms and facilities that are involved in compounding of veterinary medicines for prescribing veterinarians.

ACVM Group response

The ACVM Group is developing a standard to cover the obligations in regard to specially compounded medicinal preparations. ACVM Group staff have also visited a range of compounding operations to test the appropriateness of its specifications. These obligations will be conveyed to the affected parties via *AgVetLink*, the ACVM Group website and special workshops (if necessary). Following the implementation of the standard and the associated communications, the ACVM Group is proposing a further audit to check compliance and to confirm if a regular audit programme is required.

Discretionary Use Cost Factor vs Animal Welfare Issue

That the ACVM Group Director clarifies whether it is acceptable in some circumstances to use prescription, pharmacy-only or restricted human medicines instead of equivalent remedies registered for use in animals, where the sole premise of the decision to use them is the argument that the animal may not receive the required treatment because of the cost of medicines registered for use in animal.

ACVM Group response

The ACVM Group considers that veterinarians must make a case-by-case professional judgment that high cost will actually jeopardise the welfare of the animals involved, and behave accordingly. There must be discussion with the animal owner in each instance. The routine use of an unregistered product for cost differential reasons is unacceptable. The veterinarian's case records should provide the case specific rationale for the judgment, and the management of product stocks should not indicate that the use is routine.

This has been and will continue to be conveyed to veterinarians.

ACVM Group response to other issues noted in the audit report

Failure to disclose discretionary use

The auditor noted as a key issue that veterinarians were not, in all cases, advising the client that a product was being used in a discretionary manner. With regards to compliance with the ACVM Act, the ACVM Group does not consider this to be a key issue for non-food or feed producing animals. It is a professional judgment call on the part of a veterinarian as to whether or not such disclosure is necessary in a particular case.

The requirement to disclose the discretionary use is specified in the New Zealand Veterinary Association's standard for discretionary use. This has been approved under section 28 of the ACVM Act, but the particular specification was not crucial to the approval. No request to remove it was made by the ACVM Group because it was not considered to jeopardise the ACVM risk management and it relates to professional standards. The specification has not been incorporated in the *ACVM Standard for Unregistered Veterinary Medicines Requiring Veterinary Overview*, by which any future approval of a code of practice would be measured. It is recommended that the Veterinary Council of New Zealand and the NZVA consider reviewing its professional standards and codes of practice on this issue.