

NORTHERN TERRITORY OF AUSTRALIA

VETERINARIANS ACT

As in force at 28 March 2007

EXTRACT FROM THE ACT, PERTAINING TO:

PART 5 – DISCIPLINARY PROCEEDINGS

26. Complaints against registered veterinarians

(1) A person may make a complaint to the Board against a registered veterinarian on the ground that the veterinarian –

- (a) has been guilty of misconduct;
- (b) is guilty of habitual drunkenness, or of addiction to a drug that adversely affects his or her ability to provide veterinary services;
- (c) has been found guilty –
 - (i) in the Territory, of an offence punishable on conviction by imprisonment for 6 months or more; or
 - (ii) elsewhere, of an offence that would have been an offence so punishable had it been committed in the Territory;
- (d) has been found guilty of an offence against the *Poisons and Dangerous Drugs Act*;
- (e) has been found guilty of an offence under the *Animal Welfare Act*;
- (f) made a false or misleading statement in connection with his or her application for registration as a veterinarian or as a veterinary specialist; or
- (g) having obtained registration as a veterinarian under section 13(1)(a), provided veterinary services while being no longer qualified, within the meaning of that subsection, to do so.

(2) A complaint under this section shall be in writing and shall –

- (a) state the complainant's full name, and an address for the service of notices or other documents on the complainant;

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- (b) clearly identify the registered veterinarian against whom the complaint is made;
- (c) contain particulars of the matter complained of; and
- (d) be accompanied by the prescribed fee, if any.

(3) A complaint may only be made against a registered veterinarian if the grounds on which the complaint is made arose within the 2 years immediately before the making of the complaint.

27. Complaints of misconduct against persons formerly registered

(1) A person may make a complaint to the Board against a person formerly registered under this Act on the ground that that person was, as a registered veterinarian, guilty of misconduct during the period of 6 months immediately preceding the making of the complaint.

- (2) A complaint under this section shall be in writing, and shall –
 - (a) state the complainant's full name and an address for the service on the complainant of notices or other documents;
 - (b) clearly identify the person against whom the complaint is made;
 - (c) contain particulars of the misconduct complained of; and
 - (d) be accompanied by the prescribed fee, if any.

28. Meaning of misconduct

(1) For the purposes of this Act, a registered veterinarian or a person formerly registered under this Act is guilty of misconduct if he or she –

- (a) is guilty of improper or unethical conduct, or is incompetent or negligent, in or in connection with the provision of a veterinary service;
- (b) contravenes or fails to comply with this Act, a prescribed code of conduct or a condition to which his or her registration is subject; or
- (c) uses in connection with the provision of veterinary services a qualification or title relating to his or her competence to provide such services that is not shown in his or her entry in the Register.

(2) For the purposes of subsection (1)(a), a registered veterinarian or a person formerly registered under this Act is taken to be incompetent if he or she is unable or fails to uphold or maintain contemporary professional standards.

29. Board to investigate complaint

(1) Subject to subsection (5), if a complaint is made under section 26 or 27, the Board must serve on the person against whom the complaint is made a notice of investigation.

(2) A notice of investigation under subsection (1) is to –

(a) inform the person on whom it is served –

(i) that a complaint has been made against him or her;

(ii) of the grounds of the complaint; and

(iii) of the particulars contained in the complaint;

(b) state that the Board proposes to carry out an investigation into the complaint;

(c) specify a date, being a date not earlier than 28 days after the notice is served, by which the Board is to complete the investigation; and

(d) inform the person of the right conferred on him or her by section 31A(2) and the date, being a date not earlier than 7 days after the notice is served, by which the person must make his or her submission to the Board.

(3) If the Board serves a notice of investigation on a person, it must –

(a) send a copy of the notice to the complainant; and

(b) inform the complainant in writing that the notice has been served.

(4) If the Board serves a notice of investigation on a person, the Board must –

(a) carry out an investigation into the complaint; and

(b) complete the investigation by the date specified in the notice or by a later date fixed by the Board.

(5) If the Board fixes a later date under subsection (4)(b) it must serve written notice of the date on the complainant and the person on whom the notice of investigation was served.

(6) If a complaint appears to the Board to be frivolous, vexatious or minor, the Board must dismiss the complaint and serve the complainant with written notice of its dismissal.

30. Board may carry out investigation on own initiative

(1) If the Board is, otherwise than by reason of a complaint made to it under this Part, of the opinion –

- (a) in the case of a registered veterinarian – that a complaint may lie against him or her on a ground specified in section 26(1); or
- (b) in the case of a person formerly registered under this Act – that the person may have been guilty of misconduct when he or she was a registered veterinarian,

the Board may serve on him or her a notice of investigation in accordance with subsection (3).

(2) A notice of investigation served on a person formerly registered under this Act may relate only to misconduct during the period of 2 years immediately before the date on which the notice is served.

(3) A notice of investigation under this section is to –

- (a) inform the person on whom it is served of the Board's opinion and the reason for the Board's opinion and, in a case to which subsection (1)(a) refers, is to specify the ground of complaint;
- (b) state that the Board proposes to carry out an investigation into the matter;
- (c) specify the date, being a date not earlier than 28 days after the notice is served, by which the Board is to complete the investigation; and
- (d) inform the person of the right conferred on him or her by section 31A(2) and the date, being a date not earlier than 7 days after the notice is served, by which the person must make his or her submission to the Board.

(4) If the Board serves a notice of investigation under this section, it must –

- (a) carry out an investigation; and
- (b) complete the investigation by the date specified in the notice or by a later date fixed by the Board.

(5) If the Board fixes a later date under subsection (4)(b) it must serve written notice of the date on the person on whom the notice of investigation was served.

31. Board may suspend registration

(1) If the Board serves a notice of investigation on a registered veterinarian, it may, if it considers it in the public interest –

- (a) in the notice; or
- (b) by another notice served on the registered veterinarian,

suspend the registered veterinarian's registration from the date of service of the notice.

(2) A notice under subsection (1)(b) may be served at any stage during the Board's proceedings in relation to the notice of investigation.

(3) The suspension remains in force –

- (a) until the Board certifies, by notice served on the registered veterinarian, that his or her suspension is cancelled; or
- (b) in relation to a matter under investigation that proceeds to a hearing – until the hearing is concluded and a notice is served on the registered veterinarian under section 33(1),

whichever is the earlier.

31A. Procedure of investigation

(1) An investigation under this Part is to be conducted by the Board in the manner the Board thinks fit.

(2) The person in relation to whom the investigation is to be carried out is entitled to make written submissions to the Board for the purposes of the investigation.

31B. Completion of investigation

(1) If a complaint was made under section 26 or 27, the Board must complete an investigation by determining –

- (a) that the complaint is dismissed and take no further action;
- (b) if satisfied that there is prima facie evidence to substantiate the complaint – that the Board will proceed to a hearing; or
- (c) if satisfied that a ground specified in section 26(1) has been established against a registered veterinarian – that the Board will reprimand or caution the veterinarian and take no further action.

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(2) If the Board served a notice under section 30, the Board must complete an investigation by determining that the Board –

- (a) will take no further action;
- (b) will proceed to a hearing; or
- (c) will reprimand or caution the person to whom the notice relates and take no further action.

(3) The Board must, not later than 28 days after completing an investigation, serve notice of the determination on the complainant, if any, and the person in relation to whom the investigation was carried out.

(4) If the Board determines to reprimand or caution a person, a notice under subsection (3) is to contain –

- (a) the reprimand or caution; and
- (b) the reasons for the Board's decision.

(5) If –

- (a) the registration of a person in relation to whom an investigation was carried out was suspended under section 31; and
- (b) the Board determines that it will not take further action,

the Board must certify that the suspension is cancelled.

(6) A decision by the Board under subsection (1) or (2) to take no further action in relation to an investigation of a matter does not prevent the Board from reinvestigating the matter at a later date if –

- (a) the circumstances of the matter have changed; or
- (b) the Board receives new information in relation to the matter.

31C. Person who is reprimanded or cautioned may require hearing

(1) If the person to whom an investigation relates receives a notice under section 31B(3) reprimanding or cautioning him or her, he or she may in writing request the Board to proceed to a hearing.

(2) The Board must proceed to a hearing if it receives a request under subsection (1).

31D. Notice of hearing

(1) If –

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- (a) the Board has determined under section 31B(1) that it is to proceed to a hearing; or
- (b) the Board must proceed to a hearing under section 31C(2),

the Board must serve a notice of hearing on the person in relation to whom the hearing is to be held.

- (2) A notice of hearing is to –
 - (a) specify the time and place of the hearing; and
 - (b) inform the person of the rights conferred on him or her by section 32(5).

(3) The time specified in the notice of hearing is not, without the consent of the person on whom the notice is served, to be less than 14 days after the date of service of the notice.

- (4) If –
 - (a) the Board has served a notice of hearing; and
 - (b) the hearing is a result of a complaint made to the Board under section 26 or 27,

the Board must –

- (c) send a copy of the notice to the complainant; and
- (d) inform the complainant in writing that he or she is entitled to attend the hearing and of the rights conferred by section 32(5) on the person on whom the notice of hearing was served.
- (5) The Board must hold the hearing –
 - (a) at the time and place specified in the notice of hearing; or
 - (b) at a later time or other place fixed by the Board.

(6) If the Board fixes a later date or other place under subsection (5)(b) it must serve written notice of the date or place on the complainant, if any, and the person on whom the notice of hearing was served.

32. Procedure at inquiry

(1) The Board may, by notice in writing served on a person, summon the person to give evidence at a hearing under this Part, or to produce at the hearing documents or records in the person's possession or under his or her control.

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(2) A person shall not, without reasonable excuse, refuse or fail to comply with a notice served under subsection (1).

Penalty: 100 penalty units.

(3) For the purposes of a hearing, the Board may take evidence on oath, and the President and Vice-President each has power to administer an oath.

(4) A person shall not, without reasonable excuse, refuse or fail to answer a question put to the person by the Board in the course of a hearing.

Penalty: 100 penalty units.

(5) The person in relation to whom an inquiry is held is entitled –

(a) to be advised at the hearing by a legal practitioner but is not entitled to legal representation;

(b) to give evidence or call and to examine any other person who gives evidence at the hearing; and

(c) with the leave of the Board, to summon witnesses.

(6) The Board shall not refuse leave to summon a witness to give evidence at a hearing unless that would, in its opinion, delay unreasonably the conclusion of the hearing.

(7) The Board –

(a) shall conduct a hearing with as little formality and technicality, and with as much expedition, as a proper consideration of the matter before it permits; and

(b) is not bound by any rules or practice as to evidence, but may inform itself on a matter as it thinks fit.

(8) The Board may appoint a legal practitioner to assist it in a hearing but is not entitled to legal representation.

(9) The Board may hold a hearing in the absence of the person in relation to whom it is held if it is satisfied that he or she was served in accordance with section 31D with a notice of the time and place of the inquiry.

(10) The Board may adjourn its proceedings from time to time or from place to place, and may determine a hearing notwithstanding that a party to the proceedings has failed to appear at the time and place fixed for the hearing.

33. Board's findings at hearing

(1) The Board must, at the conclusion of a hearing –

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- (a) record its findings in writing;
 - (b) not later than 28 days after the conclusion – serve on the person in relation to whom the hearing was held a written notice stating the findings; and
 - (c) specify in the notice the disciplinary action, if any, to be taken under section 34.
- (2) [Omitted]
- (3) Where the hearing resulted from a complaint under section 26 or 27, the Registrar shall send to the complainant a copy of the Board's notice under subsection (1)(b).
- (4) The Board may cause to be published in a newspaper or other publication circulating in the Territory the reasons for a hearing and its findings.
- (5) The Board may refund to the complainant, wholly or in part, the fee, if any, that accompanied the complaint.

34. Disciplinary action

- (1) Where at a hearing held under this Part in respect of a registered veterinarian the Board finds a ground specified in section 26(1) to have been established, it may, in a notice under section 33(1) served on the veterinarian do one or more of the following:
- (a) reprimand or caution the veterinarian;
 - (b) impose a condition to which the veterinarian's registration is to be subject, or vary a condition to which the registration is already subject;
 - (c) require the veterinarian to pay to the Board, within a specified time, a fine not exceeding 200 penalty units;
 - (d) require the veterinarian to pay to a complainant, within a specified time, a specified amount by way of compensation for any loss or detriment suffered by the complainant;
 - (e) suspend for a specified period not exceeding 5 years –
 - (i) the veterinarian's registration together with his or her registration, if any, as a veterinary specialist; or
 - (ii) where the veterinarian is registered as a veterinary specialist, that registration only;

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- (f) cancel –
 - (i) the veterinarian's registration together with his or her registration, if any, as a veterinary specialist; or
 - (ii) where the veterinarian is registered as a veterinary specialist, that registration only;
- (g) require the veterinarian –
 - (i) to pay to the Board, within a specified time, a specified amount in respect of the costs incurred by the Board in connection with the hearing; or
 - (ii) to pay to a complainant, within a specified time, a specified amount in respect of any reasonable costs incurred by the complainant in connection with the making of his or her complaint or the hearing.

(2) Where, at a hearing under this Part in respect of a person formerly registered under this Act, the Board finds that the person has, as a registered veterinarian, been guilty of misconduct within the time limited by section 27(1) or 30(2), it may by a notice under section 33(1) served on the person, do in relation to him or her all or any of the things authorised by subsection (1)(a), (c), (d) and (g) to be done in relation to a registered veterinarian.

- (3) If the Board in a notice under section 33(1) –
 - (a) cancels a veterinarian's registration; or
 - (b) takes action under subsection (2),

it may, by the notice, specify a date before which the person to whom the notice relates is not eligible to make an application for registration and the Board is not obliged to consider an application made by the person before that date.

35. Supplementary provisions

- (1) Where a notice under section 33(1) –
 - (a) imposes a condition to which a registration is to be subject or varies a condition to which a registration is already subject; or
 - (b) suspends or cancels a registration,

the notice takes effect from the time of its service, and the Registrar shall note the Register accordingly.

(2) Where a notice under section 33(1) requires the person on whom it is served to pay a fine to the Board, an amount by way of compensation to a complainant, or an amount in respect of costs to the Board or a complainant, and the fine or amount is not paid within the time specified in the notice –

- (a) the Board or the complainant, as the case may be, may recover the fine or amount from the person as a debt due and payable; and
- (b) where that person is a registered veterinarian, the Board may if it thinks fit, by notice in writing served on him or her, suspend his or her registration, together with his or her registration, if any, as a veterinary specialist, until the fine or amount is paid.

(3) The suspension of a registration by a notice under subsection (2)(b) shall take effect on the service of the notice, and the Registrar shall –

- (a) note the suspension on the Register; and
- (b) on being satisfied that the fine or amount in question has been paid, note on the Register that the suspension has ceased to have effect.

PART 6 – APPEALS

36. Appeal to Local Court

- (1) An appeal to the Local Court lies under this Part as follows:
 - (a) an applicant for registration as a veterinarian under section 13 whose application the Board refuses because it is not satisfied that the applicant is a fit and proper person to provide veterinary services in the Territory may, within 28 days after the date on which notice of the refusal is given pursuant to section 12(2), appeal against the refusal;
 - (b) a registered veterinarian whose registration is subject to a condition imposed under section 18(1) may, within 28 days after the date on

which his or her certificate of registration is issued, appeal against the condition;

- (c) a person in relation to whom a hearing is held under Part 5 may, within 28 days after the service on him or her of a notice under section 33(1), appeal against any or all of the following:
 - (i) a finding stated in the notice;
 - (ii) a requirement of, or action, if any, effected by the notice.

(2) The Local Court may, on an application made by a person on whom a right of appeal is conferred by subsection (1), within the period allowed for bringing the appeal, extend or further extend the period during which the appeal may be brought.

(3) An appeal to the Local Court against a finding of the Board shall, unless the Court otherwise directs, be by way of rehearing.

37. Powers of Local Court on appeal

(1) On an appeal under section 36(1)(a), the Local Court may, by order –

- (a) direct that the appellant be registered, with or without conditions, as a veterinarian under section 13; or
- (b) dismiss the appeal.

(2) On an appeal under section 36(1)(b), the Local Court may, by order –

- (a) confirm a condition appealed against;
- (b) cancel a condition; or
- (c) vary a condition in a manner specified in the order.

(3) On an appeal under section 36(1)(c), the Local Court may, by order –

- (a) confirm or quash a finding stated in a notice under section 33(1);
- (b) confirm or quash a requirement of or action effected by notice under section 33(1); or
- (c) exercise a power of the Board under section 34.

38. Entries in register, &c.

(1) The Registrar shall make the entries in the Register as are appropriate by reason of an order made by the Local Court on an appeal under this Part or, on a further appeal, by the Supreme Court.

(2) Where –

(a) an order of a Court requires a registered veterinarian to pay a fine to the Board, an amount by way of compensation to a complainant or an amount in respect of costs to the Board or a complainant; and

(b) the amount is not paid in accordance with the order,

the Board may, if it thinks fit, by notice in writing served on the registered veterinarian, suspend his or her registration, together with his or her registration, if any, as a veterinary specialist, until the fine or amount is paid.

(3) The suspension of a registration by a notice under subsection (2) shall take effect on the service of the notice, and the Registrar shall –

(a) note the suspension on the Register; and

(b) on being satisfied that the fine or amount in question has been paid, note on the Register that the suspension has ceased to have effect.

(4) Where –

(a) the Board has found a person to have been guilty of misconduct, and has published a notice of its finding under section 33(4); and

(b) the finding is quashed by a court on appeal,

the Board shall publish a notice, in a manner similar to the notice published under section 33(4), advising that its finding has been quashed by the Court.