

Bill 19
Mr. Danyluk

BILL 19

2002

VETERINARY PROFESSION AMENDMENT ACT, 2002

(Assented to , 2002)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Amends RSA 2000 cV-2

1 The *Veterinary Profession Act* is amended by this Act.

2 Section 1 is amended

(a) by adding the following after clause (b):

- (b.1) “Complaint Review Committee” means the Complaint Review Committee established under section 9.5;
- (b.2) “Complaints Director” means the Complaints Director appointed under section 9.1;

(b) by repealing clause (d);

(c) by adding the following before clause (e):

- (d.1) “Hearing Tribunal” means the Hearing Tribunal established under section 9.4;
- (d.2) “Hearings Director” means the Hearings Director appointed under section 9.2;
- (d.3) “incapacitated” means suffering from a physical, mental or emotional condition or disorder or an addiction to alcohol or to drugs as defined in the *Pharmaceutical*

Profession Act or other chemicals that impairs the ability to practise veterinary medicine in a safe and competent manner;

(d.4) “investigated person” means a person with respect to whom

- (i) a complaint has been made under Part 5, or
- (ii) information has been treated as a complaint under section 27.1,

if the proceedings with respect to the complaint have not been concluded;

(d) by adding the following after clause (f):

(f.1) “Ombudsman” means the Ombudsman appointed under the *Ombudsman Act*;

(e) by adding the following after clause (h):

(h.1) “President” means the President of the Association;

(f) by adding the following after clause (n):

(n.1) “unprofessional conduct” means any or all of the following, whether or not it is disgraceful or dishonourable:

- (i) displaying a lack of knowledge of or lack of skill or judgment in the practice of veterinary medicine;
- (ii) contravening this Act or the regulations;
- (iii) representing or holding out that a person is a registered veterinarian and in good standing while the person’s registration or annual certificate is suspended or cancelled;
- (iv) representing or holding out that a person’s registration or annual certificate is not restricted or subject to conditions when it is, or misrepresenting the restrictions or conditions;
- (v) failing or refusing to co-operate with the Practice Review Board undertaking a practice review;

- (vi) failing or refusing
 - (A) to comply with an agreement that is part of a ratified settlement,
 - (B) to comply with a request of or to co-operate with an investigator,
 - (C) to undergo an examination under section 65.1, or
 - (D) to comply with a notice to attend or a notice to produce under Part 5;
- (vii) contravening an order under Part 5, conditions imposed on an annual certificate or a direction under section 65.1;
- (viii) carrying on the practice of veterinary medicine with a person who is contravening an order under Part 5, conditions imposed on an annual certificate or a direction under section 65.1;
- (ix) carrying on the practice of veterinary medicine on behalf of a corporation that does not meet the requirements for a permit under Part 4;
- (x) conduct that harms the public while carrying on the practice of veterinary medicine;
- (xi) conduct that harms the integrity of the profession.

(g) in clause (p) by adding the following after subclause (ii):

- (iii) prescribing, compounding, dispensing and selling drugs.

3 The following is added after section 6:

Annual report

6.1(1) The Association must submit to the Minister an annual report of its activities in a form acceptable to the Minister that contains the information requested by the Minister, including but not restricted to

- (a) a statement respecting the number of complaints made and their disposition, including the number of hearings closed to the public in whole or in part, the number of

appeals and the number of registered veterinarians who have been suspended;

- (b) information respecting registration;
- (c) a statement respecting the committees and tribunals established under this Act;
- (d) audited financial information or financial information set out in a form and manner satisfactory to the Minister.

(2) On receipt of a report under subsection (1), the Minister may lay a copy of it before the Legislative Assembly if it is then sitting or, if it is not then sitting, within 15 days after the commencement of the next sitting.

(3) The Minister may, to ensure that the requirements of this Act are met, require reports from the Association in addition to the annual report under subsection (1).

4 Section 7(3) and (4) are repealed.

5 Section 8 is amended

(a) by repealing subsection (1)(b) and substituting the following:

- (b) members of the public appointed by the Lieutenant Governor in Council after the Minister has consulted with the Council to make up at least 25% of the number of members under clause (a).

(b) by adding the following after subsection (1):

(1.1) A member of the public appointed under subsection (1)(b) may be appointed for a term of up to 3 years and may be reappointed, but may not be appointed for more than 6 consecutive years.

(1.2) Despite subsection (1)(b), the number of members of the public may be increased with the consent of the Council.

(1.3) Despite subsection (6) and the bylaws governing quorum, the number of members of the public required to be appointed under subsection (1)(b) must be present at a review

before a committee of the Council under Part 5 and an appeal before the Council under Part 5.

(1.4) Despite subsection (1.3), if a member of the public is not appointed under subsection (1)(b) or if a member of the committee of the Council appointed under subsection (1)(b) is not capable of carrying out the powers and duties of a member, the committee of the Council may hold or continue to hold a review or appeal in which the member would have been or was participating, and the committee of the Council may carry out its powers and duties with respect to the review or appeal.

- (c) in subsection (3) by striking out “A member” and substituting “Despite subsection (1.1), a member”;**
- (d) in subsection (4) by striking out “Minister may, after consultation” and substituting “Lieutenant Governor in Council may, after the Minister has consulted”;**
- (e) in subsection (5) by striking out “by the Minister” and substituting “by the Lieutenant Governor in Council”;**
- (f) by repealing subsection (7).**

6 The following is added after section 9:

Complaints Director

9.1 The Council must appoint an individual as a Complaints Director for the purposes of this Act.

Hearings Director

9.2(1) The Council must appoint an individual as a Hearings Director for the purposes of this Act.

(2) A Hearings Director may not chair or participate in a hearing, review or appeal under Part 5.

Membership lists

9.3(1) The Council must appoint members to a membership list consisting of no fewer than 6 regulated members to be used for appointing members to both hearing tribunals and complaint review committees.

(2) The Lieutenant Governor in Council may appoint 5 members of the public to a membership list to be used for

appointing members of the public to both hearing tribunals and complaint review committees.

(3) Section 8(1.1) applies to a member of the public appointed under subsection (2).

Hearing Tribunal

9.4(1) The Hearing Tribunal is established consisting of

- (a) at least 3 members appointed by the Council from the membership list established under section 9.3(1), and
- (b) members of the public to make up at least 25% of the number of members of the Hearing Tribunal, appointed by the Complaints Director from the membership list established under section 9.3(2).

(2) All members of the Hearing Tribunal are voting members.

Complaint Review Committee

9.5(1) The Complaint Review Committee is established consisting of

- (a) at least 3 members appointed by the Council from the membership list established under section 9.3(1), and
- (b) members of the public to make up at least 25% of the number of members of the Complaint Review Committee, appointed by the Complaints Director from the membership list established under section 9.3(2).

(2) All members of the Complaint Review Committee are voting members.

Public members

9.6(1) Despite the bylaws governing quorum, the members of the public

- (a) of the Hearing Tribunal must be at a hearing by the Hearing Tribunal, and
- (b) of the Complaint Review Committee must be present at a ratification of a settlement and a review by the Complaint Review Committee.

(2) Despite section 9.4(1) and subsection (1), if a member of the public is not appointed under section 9.4(1)(b) or if a member of the Hearing Tribunal appointed under section

9.4(1)(b) is not capable of carrying out the powers and duties of a member, the Hearing Tribunal may hold or continue to hold a hearing in which the member would have been or was participating and the Hearing Tribunal may carry out its powers and duties with respect to that hearing.

(3) Despite section 9.5(1) and subsection (1), if a member of the public is not appointed under section 9.5(1)(b) or if a member of the Complaint Review Committee appointed under section 9.5(1)(b) is not capable of carrying out the powers and duties of a member, the Complaint Review Committee may review or continue to review and ratify a settlement and may conduct or continue to conduct a review under Part 5 in which the member would have been or was participating, and the Complaint Review Committee may carry out its powers and duties with respect to that settlement or review.

7 Section 11(4), (5), (6) and (7) are amended by striking out “Discipline Committee” wherever it occurs and substituting “Hearing Tribunal”.

8 Section 12 is amended by striking out “Discipline Committee” and substituting “Hearing Tribunal”.

9 Section 13 is amended

(a) in subsection (1)

- (i) in clause (g) by striking out “Discipline Committee” and substituting “Hearing Tribunal”;**
- (ii) by repealing clause (h);**
- (iii) in clause (n) by striking out “Discipline Committee” and substituting “Complaint Review Committee, the Hearing Tribunal”;**
- (iv) in clause (p) by striking out “Discipline Committee” and substituting “Complaint Review Committee, of the Hearing Tribunal”;**
- (v) by repealing clause (r);**

- (vi) **in clause (s) by striking out** “committees of inquiry for reinstatement” **and substituting** “reinstatement of registration and annual certificates”;
 - (vii) **in clause (aa) by striking out** “disciplinary” **and substituting** “unprofessional conduct”;
- (b) by repealing subsection (2) and substituting the following:**
- (2)** A regulation must be approved in principle by a majority of the members of the registered veterinarians voting
 - (a) at a special meeting called for that purpose,
 - (b) by a mail vote or a vote authorized by bylaw that is conducted by electronic, telecommunication or other appropriate means, or
 - (c) at the annual general meeting following the Council’s making of the regulation.
 - (3)** The Council may change the text of a regulation that was approved in principle under subsection (2) if the change
 - (a) is consistent with the approval in principle, and
 - (b) is made before the regulation is submitted to the Lieutenant Governor in Council for approval.
 - (4)** A regulation under this section does not come into force unless it has been approved by the Lieutenant Governor in Council.

10 Section 14(1) is amended

- (a) in clause (a) by adding** “, including the management and carrying out of powers and duties by the Council and committees, boards, tribunals and other entities” **after** “affairs”;
- (b) in clause (d)**
 - (i) by striking out** “number and term of office” **and substituting** “number, term of office and removal from office”;

- (ii) **by striking out** “officers” **and substituting** “officers, including the President,”;
- (c) **in clause (e) by striking out** “the Discipline Committee” **and substituting** “the Complaint Review Committee, the Hearing Tribunal”;
- (d) **by adding the following after clause (e):**
 - (e.1) subject to Part 2, prescribing the number of members that constitutes a quorum of the Council, the Practice Review Board, the Hearing Tribunal, the Complaint Review Committee, the Registration Committee and committees established by the Council;
- (e) **by adding the following after clause (f):**
 - (f.1) respecting procedures at meetings and the holding of meetings by the Council, the Practice Review Board, the Hearing Tribunal, the Complaint Review Committee, the Registration Committee, committees established by the Council and other entities by mail, telephone conference, audiovisual or other electronic means;
 - (f.2) subject to Part 2, providing for the amount of expenses and remuneration payable to members of the Council, the Practice Review Board, the Hearing Tribunal, the Complaint Review Committee, the Registration Committee, committees designated by the Council and other entities and by whom the expenses and remuneration are payable;
- (f) **in clause (v) by adding** “and information described in section 65.2” **after** “fees”.

11 The heading preceding section 26 is repealed and the following is substituted:

Part 5 Professional Conduct

12 Section 26 is amended by adding the following after clause (a):

- (a.1) “document” includes recorded information in written, photographic, magnetic, electronic or other form;

13 The following heading is added before section 27:

**Division 1
Complaint Process**

14 Section 27 is amended

- (a) **in subsection (1) by striking out “Registrar” and substituting “Complaints Director”;**

- (b) **by adding the following after subsection (2):**

(2.1) If anything referred to in section 27.1 is treated by the Complaints Director as a complaint, it is deemed to be a complaint made under subsection (1) and to have been received on the date the Complaints Director first treats it as a complaint.

- (c) **by repealing subsection (3).**

15 The following is added after section 27:

Aware of unprofessional conduct

27.1 Despite not receiving a complaint under section 27(1), if the Complaints Director has information that on reasonable grounds causes the Complaints Director to believe that the conduct of a registered veterinarian constitutes unprofessional conduct or has information that a person has not complied with an order under section 41.1(1) or 45(5) or with a ratified settlement under section 30.1, or if an admission under section 35.1 does not relate to all matters complained of or investigated, the Complaints Director may treat the information as a complaint received under section 27(1).

16 Sections 28 to 60 are repealed and the following is substituted:

Acting on a complaint

28(1) Within 30 days of being given a complaint, the Complaints Director must give notice to the complainant of the action taken with respect to it.

(2) The Complaints Director

- (a) may encourage the complainant and the investigated person to communicate with each other and resolve the complaint,
- (b) may, with the consent of the complainant and investigated person, attempt to resolve the complaint,
- (c) may make a referral to an alternative complaint resolution process under Division 2,
- (d) may request an expert to assess and provide a written report on the subject-matter of the complaint,
- (e) may conduct, or appoint an investigator to conduct, an investigation,
- (f) may make a referral in accordance with section 65.1(1),
- (g) if satisfied that the complaint is trivial or vexatious, may refer the complaint to the Complaint Review Committee, and
- (h) if satisfied that there is insufficient or no evidence of unprofessional conduct, may refer the complaint to the Complaint Review Committee.

(3) The Complaints Director must refer a complaint to the Complaint Review Committee if

- (a) the complaint is not resolved under subsection (2)(a) or (b), or
- (b) the settlement with regards to all matters is not ratified pursuant to a referral to an alternative complaint resolution process.

(4) The Complaint Review Committee must review a referral under subsection (2) or (3) within 30 days of receiving it and may

- (a) dismiss the complaint, if in the opinion of the Complaint Review Committee
 - (i) the complaint is trivial or vexatious, or
 - (ii) there is insufficient or no evidence of unprofessional conduct,
 - (b) direct the Complaints Director to conduct or appoint an investigator to conduct an investigation and to prepare a report on the investigation and submit it to the Complaint Review Committee for its consideration before acting under clause (a) or referring the matter to the Hearings Director for a hearing, or
 - (c) make a referral in accordance with section 65.1.
- (5)** The Complaint Review Committee must, within 30 days from making a decision under subsection (4),
- (a) give the complainant and, subject to section 31(1)(b), give the investigated person written notification, with reasons, of the decision under subsection (4), and
 - (b) if the complaint is dismissed, give the complainant written notification of the right to apply to the Hearings Director for a review under section 34.1.

Division 2 Alternative Complaint Resolution Process

Process

29(1) The Complaints Director may, with the agreement of the complainant and the investigated person, refer the complainant and the investigated person to an alternative complaint resolution process at any time before the commencement of a hearing by the Hearing Tribunal.

(2) If the Complaints Director makes a referral under subsection (1), a member of the Association must participate in or conduct the alternative complaint resolution process.

(3) The person who conducts the alternative complaint resolution process must set out the process in writing and include a statement that the investigated person or the

complainant or both may cease participating in the alternative complaint resolution process at any time.

(4) The complainant and the investigated person must agree to the process as written under subsection (3) before the alternative complaint resolution process may begin.

(5) A person who conducts an alternative complaint resolution process must be impartial and must act impartially.

(6) If a report has been prepared under section 28(2)(d) with respect to the subject-matter of the complaint, the Complaints Director must submit a copy of the report to the person conducting the alternative complaint resolution process.

(7) If a report has not been prepared under section 28(2)(d), the person conducting the alternative complaint resolution process may request an expert to assess and submit a written report on the subject-matter of the complaint or matters arising during the alternative complaint resolution process.

(8) A person who conducts an alternative complaint resolution process may assist in settling a complaint, but if

- (a) in the opinion of that person, a settlement is not likely to occur, or
- (b) the Complaint Review Committee does not ratify the settlement under section 30.1,

the person must notify the Complaints Director.

(9) If during the alternative complaint resolution process information is introduced that causes the person conducting the alternative complaint resolution process to believe that the matter is substantially different from the original complaint, the person must notify the Complaints Director, and the Complaints Director must decide whether the alternative complaint resolution process may continue or whether the matter must be processed under subsection (10).

(10) On being notified under subsection (8) or section 30.1(3) that a settlement has not been ratified or under section 30.1(8)(b) of the matters that do not form part of a ratified settlement, or on deciding under subsection (9) to process a matter under this subsection, the Complaints Director must

- (a) if an investigation has not been commenced, commence an investigation under Division 3,
- (b) if an investigation has been commenced but no report on the investigation has been made, refer the complaint back to the investigator, if available, or appoint another investigator to complete the investigation regarding the complaint and make a report, or
- (c) refer the matter to the Complaint Review Committee to determine whether the complaint should be dismissed or referred to the Hearings Director for a hearing.

Evidence

30(1) A person who conducts an alternative complaint resolution process must keep any records relating to the process separate from the Association's records, except a ratified settlement.

(2) Any documents prepared or generated for the purposes of an alternative complaint resolution process belong to the person who prepared or generated the documents but a report described in section 28(2)(d) belongs to the Association.

(3) Except for information described in section 29(9) or that is part of a ratified settlement or a report described in section 28(2)(d), any communication and evidence arising from anything said, evidence of anything said or evidence of an admission or communication made in the course of an alternative complaint resolution process is confidential and not admissible in any proceedings under this or any other Act or in any action, matter or proceeding before a court

- (a) without the written consent of the investigated person and the complainant, and
- (b) in the case of written evidence, without the written consent of the person who prepared the written evidence, the investigated person and the complainant.

Settlement

30.1(1) If the complainant and the investigated person agree, in writing, to a proposed settlement of a complaint in an alternative complaint resolution process, the person conducting the alternative complaint resolution process must report the settlement to the Complaint Review Committee.

(2) The Complaint Review Committee may, on reviewing a proposed settlement of a complaint referred to it under subsection (1),

- (a) ratify the settlement,
- (b) with the consent of the complainant and the investigated person, amend the settlement and then ratify the settlement, or
- (c) refuse to ratify the settlement.

(3) The Complaint Review Committee must notify the Complaints Director of its actions under subsection (2) and if the settlement was not ratified the Complaints Director must act under section 29(10).

(4) On being aware that a ratified settlement is not complied with, the Complaints Director may

- (a) treat the non-compliance as information under section 27.1 and act on the information in accordance with section 27.1, or
- (b) treat the non-compliance as a complaint and refer it to the Complaint Review Committee to determine whether it should be referred to the Hearings Director for a hearing.

(5) If the Complaints Director makes a referral under subsection (4)(b), the information is deemed to be a complaint and the Complaints Director must notify the complainant and the investigated person.

(6) On a settlement being ratified, the Association may publish, in accordance with the bylaws, information respecting the complaint and the ratified settlement as authorized by the ratified settlement.

(7) The Association must retain a copy of the ratified settlement.

(8) Subject to subsections (4) and (6), if a ratified settlement

- (a) relates to all the matters complained of or that arose during the alternative complaint resolution process, no

further proceedings under this Part may be taken with respect to those matters, or

- (b) relates to only some of the matters complained of or that arose during the alternative complaint resolution process, the person who conducted the alternative complaint resolution process must notify the Complaints Director of the matters that do not form part of the ratified settlement and on being notified the Complaints Director must act under section 29(10).

Division 3 Investigations

Notice of investigation

31(1) If an investigation is to be conducted under this Part, the Complaints Director

- (a) must give the complainant the name of the investigator, and
- (b) must, unless it would significantly harm the investigation, give the investigated person the name of the investigator and reasonable particulars of the complaint to be investigated.

(2) If the investigated person is not given the information referred to in subsection (1)(b) when an investigation is to be conducted, the Complaints Director must give the information

- (a) when there would no longer be significant harm to the investigation, or
- (b) before the investigation is completed,

whichever is earlier.

Investigation scope

31.1(1) An investigator may investigate a complaint.

(2) In the course of an investigation under subsection (1), an investigator may investigate matters that are related to the conduct of the investigated person that could give rise to a finding of unprofessional conduct.

(3) Subject to section 31(1)(b), if in the course of an investigation other matters besides the subject-matter of the

complaint are investigated, the investigator must give reasonable particulars to the investigated person in accordance with section 31.

Investigation powers

32(1) An investigator

- (a) may, at any reasonable time,
 - (i) require any person to answer any relevant questions and direct the person to answer the questions under oath, and
 - (ii) require any person to give to the investigator any document, substance or thing relevant to the investigation that the person possesses or that is under the control of the person,
- (b) may require any person to give up possession of any document described in clause (a) to allow the investigator to take it away to copy it, in which case the investigator must return it within a reasonable time of being given it but must return it no later than after a hearing is completed,
- (c) may require any person to give up possession of any substance or thing described in clause (a) to allow the investigator to take it away to examine it and perform tests on it, in which case the investigator must return it, if possible, within a reasonable time of being given it but must return it, if possible, no later than after a hearing is completed, and
- (d) subject to subsection (7), may at any reasonable time enter and inspect any building where a registered veterinarian practises veterinary medicine, but if the building contains a private dwelling place may not enter any part of the building designed to be used as and being used as a permanent or temporary private dwelling place.

(2) The investigator may copy and keep copies of anything given under subsection (1).

(3) The Complaints Director, on the request of an investigator or without a request if the Complaints Director is the investigator, may apply to the Court of Queen's Bench for

- (a) an order directing any person
 - (i) to produce to the investigator any documents, substances or things relevant to the investigation in the person's possession or under the person's control,
 - (ii) to give up possession of any document described in subclause (i) to allow the investigator to take it away to copy it, in which case the investigator must return it within a reasonable time after receiving it but return it no later than after a hearing is completed, or
 - (iii) to give up possession of any substance or thing described in subclause (i) to allow the investigator to take it away to examine it and perform tests on it, in which case the investigator must return it, if possible, within a reasonable time of being given it but return it, if possible, no later than after a hearing is completed;
- (b) an order directing any person to attend before the investigator to answer any relevant questions the investigator may have relating to the investigation.

(4) An application for an order under subsection (3) may be made without notice if the Court is satisfied that it is proper to make the order in the circumstances.

(5) A person may comply with a request to give documents under subsection (1)(a)(ii) or an order to produce documents under subsection (3)(a)(i) by giving copies of the documents to the investigator.

(6) If a person gives copies under subsection (5), the person must on the request of the investigator allow the investigator to compare the copies with the original documents at the person's place of business during regular business hours.

(7) An investigator who makes a comparison under subsection (6) may take away the original documents to perform tests on them and must return them within a reasonable time of taking them but must return them no later than after a hearing is completed.

Proceedings delayed

32.1 If during an investigation the Complaints Director refers the complainant and the investigated person to an alternative

complaint resolution process in accordance with this Part, the investigation must not proceed unless the Complaints Director is notified under section 29(8) or makes a decision under section 29(9) to process the matter under section 29(10).

Conditions, suspension during proceedings

33(1) On the recommendation of the Complaint Review Committee, the Hearing Tribunal or the Complaints Director, a person designated by or a committee designated or established by the Council may

- (a) impose conditions on an investigated person's annual certificate generally or with respect to any area of the practice of veterinary medicine, including the condition that the investigated person
 - (i) practise under supervision, or
 - (ii) practise with one or more registered veterinarians,or
- (b) suspend the annual certificate of an investigated person,

until the completion of proceedings under this Part.

(2) The investigated person may apply for an order of the Court of Queen's Bench to stay a decision by a person or committee under subsection (1) by filing an originating notice with the Court and giving a copy to the Registrar.

Report of investigation

33.1(1) When an investigator concludes an investigation, the investigator must make a report within a reasonable time and submit the report to the Complaint Review Committee.

(2) If, on reviewing a report made under this section, the Complaint Review Committee determines that the report is not complete or that the investigation was not properly conducted, the Complaint Review Committee

- (a) must direct the investigator, or appoint another investigator, to undertake further investigation and make a report and submit it to the Complaint Review Committee, and

- (b) may request an expert to assess and prepare a written report on the subject-matter of the complaint or matters arising from the investigation of the complaint.

(3) If, on reviewing a report prepared under this section or section 34.1(5)(b), the Complaint Review Committee determines that the investigation is concluded, the Complaint Review Committee must

- (a) refer the matter to the Hearings Director for a hearing, or
- (b) dismiss the complaint, if in the opinion of the Complaint Review Committee
 - (i) the complaint is trivial or vexatious, or
 - (ii) there is insufficient or no evidence of unprofessional conduct.

(4) Despite subsection (3)(a), if the Hearing Tribunal has not commenced a hearing and the Complaint Review Committee learns of new evidence that causes the Complaint Review Committee to be of the opinion that the complaint is trivial or vexatious or that there is insufficient or no evidence of unprofessional conduct, the Complaint Review Committee may withdraw the complaint from the Hearings Director and the Hearing Tribunal and dismiss the complaint.

Notification of action taken

34 The Complaint Review Committee must notify the complainant and the investigated person in writing of the action taken under sections 28(4)(a) and 33.1(3) and (4), and if the complaint is dismissed must

- (a) give notice of the decision and the reasons, and
- (b) notify the complainant in writing of the right to apply to the Hearings Director for a review under section 34.1.

Review of dismissal of complaint

34.1(1) A complainant may apply, in writing with reasons, to the Hearings Director for a review of the dismissal of a complaint within 30 days of being notified of the dismissal under section 28(5) or 34.

(2) On receipt of an application under subsection (1) the Hearings Director must notify the investigated person, give a

copy of the application to the committee of the Council designated under subsection (3) and direct the Complaints Director to give a copy of the report made under section 33.1 to the committee of the Council.

(3) Within 60 days of receipt of an application under subsection (2), the Hearings Director must designate a committee of the Council and it must commence a review of the report and the decision to dismiss the complaint.

(4) A committee of the Council may determine whether the submissions to it by the complainant and the investigated person with respect to a review under subsection (3) must be written, oral or both.

(5) The committee of the Council, on complying with subsection (3), must

- (a) refer the matter to the Hearings Director for a hearing,
- (b) direct the Complaint Review Committee to conduct or appoint an investigator to conduct a further investigation and to prepare a report on the further investigation to be submitted to the committee of the Council for its consideration before it acts under clause (a) or (c), or
- (c) confirm that the complaint is dismissed if in the opinion of the committee of the Council
 - (i) the complaint is trivial or vexatious, or
 - (ii) there is insufficient or no evidence of unprofessional conduct.

(6) The committee of the Council must give the complainant and the investigated person written notification, with reasons, of any action taken under subsection (5).

Hearing to be scheduled

35 Within 90 days of receiving a referral for a hearing, the Hearings Director must set a date for a hearing with respect to the complaint unless

- (a) the Complaint Review Committee dismisses the complaint under section 33.1(3)(b),

- (b) the President, on reasonable grounds, grants an extension on application by the Hearings Director, or
- (c) the Complaints Director and the investigated person agree to an extension.

Admission of unprofessional conduct

35.1(1) At any time after a complaint has been made but before the Hearing Tribunal has made a decision as to whether unprofessional conduct has occurred, an investigated person may submit a written admission of unprofessional conduct to the Hearings Director.

(2) An admission under subsection (1) may not be acted on unless it is accepted in whole or in part by the Hearing Tribunal.

(3) If an admission under subsection (1) is accepted in whole or in part by the Hearing Tribunal, any investigation of the complaint and any alternative complaint resolution process with respect to the complaint are suspended, and the Hearing Tribunal may hold a hearing to decide

- (a) whether the admitted conduct is unprofessional conduct, and
- (b) whether any orders are to be made under section 41.1(1).

(4) Despite subsection (3), if an admission under subsection (1) does not relate to all the matters complained of or investigated, the remaining matters may be submitted to the Complaints Director for referral under section 27.1.

**Division 4
Hearings and Decisions**

Bias Prevention

Bias prevention

36 Any person who has investigated, reviewed, taken part in an alternative complaint resolution process or made a decision on a complaint or matters related to a complaint may not subsequently sit as a member of a committee of the Council, the Council, the Hearing Tribunal or the Complaint Review Committee while it is holding a hearing or a review with respect to the complaint.

Witnesses

Investigated person at hearing

36.1(1) The investigated person must appear, may be compelled to testify and may be represented by counsel at a hearing before the Hearing Tribunal.

(2) The investigated person or counsel for the investigated person may examine any witness appearing before the Hearing Tribunal.

Investigated person's witnesses

37 The investigated person may call any person, including the complainant, as a witness and may cause to be given to any person, including the complainant, a notice to attend or a notice to attend and a notice to produce at the hearing any document, substance or thing related to the subject-matter of the hearing.

Association's witnesses

37.1 The Complaints Director may make a request to the Hearings Director that any person, including the complainant and the investigated person, who in the opinion of the Complaints Director has knowledge of the subject-matter of the hearing be called as a witness and be given, under section 39, a notice to attend or a notice to attend and a notice to produce any document, substance or thing related to the subject-matter of the hearing.

Notice

38 A notice referred to in section 37 or 37.1 must be signed by the Hearings Director and the Association must retain a copy of the notice.

Rights and obligations of witnesses

38.1(1) A witness, including the investigated person, may be examined under oath, may give evidence on all matters relevant to the hearing before the Hearing Tribunal and is not excused from answering a question because the answer may

- (a) tend to incriminate the witness,
- (b) subject the witness to orders under this Part, or
- (c) tend to establish the witness's liability in a civil proceeding or a prosecution under this or any other enactment.

(2) If an answer given under subsection (1) by a witness could

- (a) establish the witness's liability in a court proceeding or proceedings under any enactment, or
- (b) incriminate the witness,

that answer may not be used or received against the witness in a civil proceeding, a prosecution under this Act or proceedings under any other Act, but that answer may be used or received against the witness in proceedings in respect of perjury or giving contradictory evidence under this Act.

(3) A witness must be advised that the hearing is open to the public unless the Hearing Tribunal directs that the hearing be closed.

(4) If a person has been given a notice to attend or a notice to attend and a notice to produce referred to in section 37 or 37.1 and fails

- (a) to attend the hearing,
- (b) to produce the items set out in the notice to produce, or
- (c) to be sworn or to answer any question that the Hearing Tribunal directs the person to answer,

the Association or the investigated person may apply to the Court of Queen's Bench for an order directing the person to comply with the notice and to be sworn and to answer questions.

(5) An application for an order under subsection (4) may be made without notice to the other party if the Court is satisfied that it is proper to make the order in the circumstances.

(6) If a witness is outside of Alberta, a judge of the Court of Queen's Bench may, on an application made by the Association or the investigated person, without notifying the witness, direct the issuing of a commission for the obtaining of evidence of the witness, but the commission may only be issued and the evidence must be taken in the same manner as under the *Alberta Rules of Court*.

Hearings

Hearings Director duties in respect of hearing

39 The Hearings Director must

- (a) at least 30 days before the hearing, give the investigated person a notice to attend and give reasonable particulars of the subject-matter of the hearing,
- (b) prior to the hearing, advise the complainant of the date, time and location of the hearing,
- (c) as requested under section 37.1 give any person a notice to attend, and
- (d) as requested under section 37.1 give any person who is to produce documents or any substance or thing a notice to attend and a notice to produce.

Access to hearing

39.1(1) A hearing is open to the public unless

- (a) the Hearing Tribunal holds the hearing or part of the hearing in private on its own motion or on an application of any person that the hearing or part of the hearing should be in private
 - (i) because of probable prejudice to a civil action or a prosecution of an offence,
 - (ii) to protect the safety of the person or of the public,
 - (iii) because not disclosing a person's confidential personal, health, property or financial information outweighs the desirability of having the hearing open to the public,
 - (iv) because the presence of the public or the complainant could compromise the ability of a witness to testify, or
 - (v) because of other reasons satisfactory to the Hearing Tribunal,
- or
- (b) another Act requires that the hearing or part of the hearing be held in private.

(2) If a hearing or part of a hearing is held in private, the Hearing Tribunal must state the reason why and must include the reason in the record.

- (3) Even if a hearing is held in private,
- (a) the investigated person and the investigated person's counsel may attend,
 - (b) the complainant may attend unless the Hearing Tribunal directs otherwise, and
 - (c) the Complaints Director and the Hearing Tribunal's, Complaints Director's and Association's counsel may attend.
- (4) Even if a hearing is open to the public, a witness, except for the investigated person, may be excluded from the hearing until the witness has given evidence and has been released or dismissed from the hearing.

Tribunal at hearing

- 40(1)** If the Hearing Tribunal is advised by counsel acting on behalf of the Hearing Tribunal at a hearing, that counsel may not lead or present evidence at the hearing on behalf of the Association or be the counsel for the Complaints Director.
- (2) The Hearing Tribunal may request an expert to assess and prepare a written report on any matter that in the opinion of the Hearing Tribunal is relevant to the subject-matter of the hearing.
- (3) The Hearing Tribunal may hear evidence on any other matter that arises in the course of a hearing, but the Hearing Tribunal must give the investigated person notice of its intention to hear the evidence and on the request of the investigated person must grant an adjournment before hearing the evidence.
- (4) If the Hearing Tribunal is of the opinion that a separate hearing is required with respect to a matter described in subsection (3), the Hearing Tribunal may
- (a) refer the matter as a complaint to the Complaints Director under section 27, or
 - (b) refer the matter to the Hearings Director for a hearing.
- (5) Evidence may be given before the Hearing Tribunal in any manner that it considers appropriate, and it is not bound by the rules of law respecting evidence applicable to judicial hearings.

(6) Despite section 36.1(1), if the investigated person does not appear at a hearing and there is proof that the investigated person has been given a notice to attend, the Hearing Tribunal may

- (a) proceed with the hearing in the absence of the investigated person, and
- (b) act or decide on the matter being heard in the absence of the investigated person.

Decisions and Records

Tribunal decision

40.1(1) The Hearing Tribunal may decide that the conduct of an investigated person does or does not constitute unprofessional conduct.

(2) If the Hearing Tribunal is of the opinion that there are reasonable and probable grounds to believe that the investigated person has committed a criminal offence, the Hearing Tribunal must direct the Hearings Director to send a copy of the written decision under section 42.1 to the Minister of Justice and Attorney General, and on the request of the Minister of Justice and Attorney General to send a copy of the record of the hearing also.

Previous decisions

41 If the Hearing Tribunal decides that the conduct of an investigated person constitutes unprofessional conduct, the Hearing Tribunal may request the Association to provide it with a copy of any previous decision of unprofessional conduct with respect to the investigated person and a copy of the record of the previous hearing.

Orders of tribunal

41.1(1) If the Hearing Tribunal decides that the conduct of an investigated person constitutes unprofessional conduct, the Hearing Tribunal may make any one or more of the following orders:

- (a) cautioning the investigated person;
- (b) reprimanding the investigated person;
- (c) imposing conditions on the investigated person's annual certificate generally or in any area of the practice of

veterinary medicine, including conditions that the investigated person

- (i) practise under supervision,
 - (ii) practise with one or more other registered veterinarians,
 - (iii) not practise in an area of the practice of veterinary medicine until the investigated person has completed a specific course of studies or obtained supervised practical experience of a type described in the order,
 - (iv) not practise in an area of veterinary medicine, or
 - (v) report on specific matters to the Hearing Tribunal, the Council or a committee or individual specified in the order;
- (d) directing the investigated person to satisfy the Hearing Tribunal, the Council or the committee or individual specified in the order that the investigated person is not incapacitated and suspend the investigated person's annual certificate until the Hearing Tribunal, committee or individual is so satisfied;
- (e) requiring the investigated person to undertake counselling or a treatment program that in its opinion is appropriate;
- (f) directing that within the time set by the order the investigated person must pass a specific course of study, obtain supervised practical experience of a type described in the order or satisfy the Hearing Tribunal or a committee or individual specified in the order as to the investigated person's competence generally or in an area of the practice of veterinary medicine;
- (g) suspending the investigated person's annual certificate for a stated period or until
- (i) the investigated person has successfully completed a specific course of studies or obtained supervised practical experience of a type described in the order, or

- (ii) the Hearing Tribunal or a committee or individual specified in the order is satisfied as to the competence of the investigated person generally or in a specified area of the practice of veterinary medicine;
 - (h) cancelling the registration and annual certificate of the investigated person;
 - (i) if in the opinion of the Hearing Tribunal the investigated person's fees for the practice of veterinary medicine were improper or inappropriate or the veterinary medicine services were improperly rendered or required the complainant's animal to undergo remedial treatment, directing the investigated person to waive or reduce the fees or repay the fees to the complainant;
 - (j) directing, subject to the regulations, that the investigated person pay within the time set in the order all or part of the costs of the investigation and hearing in accordance with the regulations;
 - (k) directing that the investigated person pay to the Association within the time set in the order a fine not exceeding \$10 000 for each finding of unprofessional conduct and not exceeding a maximum aggregate fine of \$50,000 for all findings of unprofessional conduct arising out of a hearing;
 - (l) any order that the Hearing Tribunal considers appropriate for the protection of the public.
- (2)** The Hearing Tribunal may, in an order under subsection (1), stay the order or a portion of the order on conditions set out in the order.
- (3)** If the Complaints Director is satisfied that a person has not complied with an order under this section or section 45(5)(b), the Complaints Director may
- (a) in accordance with section 27.1, treat the failure to comply as a complaint,
 - (b) refer the matter to the Hearings Director to schedule a hearing before the Hearing Tribunal, or

- (c) in the case of non-payment of a fine described in subsection (1)(k) or costs described in subsection (1)(j) or section 45(6), suspend the annual certificate of the investigated person until the fine or costs are paid in full or the Complaints Director is satisfied that they are being paid in accordance with an agreement entered into with the investigated person.

Written decision

42 The Hearing Tribunal must, within a reasonable time after the conclusion of a hearing before it, make a written decision on the matter in which it

- (a) describes each finding made by it,
- (b) states the reasons for each finding made by it, and
- (c) states any order made under this Part.

Service of decision and record of hearing

42.1(1) The Hearing Tribunal must forward to the Hearings Director

- (a) the written decision under section 42, and
- (b) the record of the hearing, consisting of all evidence presented before it, including
 - (i) the reports, exhibits and documents presented before it, and
 - (ii) a record of the evidence, including all testimony given before it, however recorded.

(2) The Hearings Director must, on receiving the decision and the record described in subsection (1), give a copy of the decision to

- (a) the Complaints Director and the Registrar,
- (b) the complainant,
- (c) the investigated person, and
- (d) the Minister of Justice and Attorney General, if so directed or requested under section 40.1(2),

and notify the investigated person of the right to appeal the decision to the Council.

Examination of record

43(1) The investigated person may examine the record of the hearing and on paying the reasonable costs of transcribing, copying and delivering the record may receive a copy of it.

(2) The complainant may examine the record of the hearing, except for the part of the record that relates to a part of the hearing that the complainant was directed by the Hearing Tribunal, under section 39.1(3)(b), not to attend, and on paying the reasonable costs of transcribing, copying and delivering that record may receive a copy of it.

(3) The public may examine the decision and the record of the hearing except for the part of the record that relates to a part of the hearing that was held in private and on paying the reasonable costs of transcribing, copying and delivering that decision and record may receive a copy of them.

Division 5 Appeals

Stay pending appeal

43.1(1) A decision of the Hearing Tribunal remains in effect pending an appeal to the Council unless the person or committee designated by the Council, on written application, stays the decision pending the appeal.

(2) The investigated person may make a written submission with respect to an application under subsection (1).

(3) If the person or committee designated by the Council

(a) decides not to stay the decision of the Hearing Tribunal,
or

(b) does not make a decision within 10 days, excluding holidays, of the application,

the applicant may apply to the Court of Queen's Bench for a stay of the decision of the Hearing Tribunal pending an appeal to the Council.

(4) A decision of the Council remains in effect pending an appeal to the Court of Appeal unless the Court, on application, stays the decision pending the appeal.

Appeal Within Association

Appeal to Council

44(1) An investigated person or the Complaints Director, on behalf of the Association, may commence an appeal to the Council of a decision of the Hearing Tribunal by a written notice of appeal that

- (a) identifies the appealed decision, and
- (b) states the reasons for the appeal.

(2) A notice of appeal must be given to the Hearings Director within 30 days after the date on which the decision of the Hearing Tribunal is given to the investigated person.

(3) The Hearings Director must, on being given a notice of appeal,

- (a) give a copy of the notice of appeal, and make a copy of the decision and record of the hearing available, to each member of the Council or of the panel of the Council hearing the appeal,
- (b) ensure that the Complaints Director, the investigated person and the complainant are given a notice of the hearing of the appeal that states the date, time and place at which the Council will hear the appeal, and
- (c) ensure that the investigated person and the Complaints Director are given a copy of the record of the hearing.

Scheduling appeal

44.1(1) The Council must,

- (a) if conditions have been imposed on the annual certificate of the investigated person under section 41.1(1)(c)(i), (ii), (iii) or (iv) or if the registration or annual certificate of the investigated person has been suspended or cancelled under section 41.1(1)(g) or (h), schedule the appeal within 60 days after the date of service of the notice of appeal, and

(b) in all other cases, schedule the appeal within 90 days after the date of service of the notice of appeal.

(2) The Council may, on the written request of the investigated person or the Complaints Director, extend the periods referred to in subsection (1) for one or more additional periods, but

(a) in a case to which subsection (1)(a) applies, no extension may be granted without the consent of the investigated person, and

(b) in a case to which subsection (1)(b) applies, no extension may be granted without the consent of the investigated person and the Complaints Director.

Council's powers on appeal

45(1) The Complaints Director and the investigated person may appear and be represented by counsel at an appeal before the Council.

(2) An appeal to the Council must be based on the record of the hearing and the decision of the Hearing Tribunal.

(3) Sections 36, 36.1, 39(a) and (b), 39.1, 40(1) and (5) and 40.1 to 43 apply to proceedings before the Council.

(4) The Council on an appeal may

(a) on hearing an application for leave to introduce new evidence, direct the Hearing Tribunal that held the hearing to hear that evidence and to reconsider its decision and quash, confirm or vary the decision,

(b) grant adjournments of the proceedings or reserve the determination of the matters before it for a future meeting of the Council, but no adjournment may be granted without the consent of the investigated person if that person's annual permit is suspended or cancelled, and

(c) draw inferences of fact and make a determination or finding that, in its opinion, should have been made by the Hearing Tribunal.

(5) The Council must, within 90 days from the date of the conclusion of the appeal hearing before it, make a decision and may, by order, do any or all of the following:

- (a) make any finding that in its opinion should have been made by the Hearing Tribunal,
 - (b) quash, vary or confirm any finding or order of the Hearing Tribunal or substitute or make a finding or order of its own,
 - (c) refer the matter back to the Hearing Tribunal to receive additional evidence for further consideration in accordance with any direction that the Council may make, or
 - (d) refer the matter to the Hearings Director to schedule it for rehearing before another Hearing Tribunal composed of persons who were not members of the Hearing Tribunal that heard the matter.
- (6) Subject to the regulations, the Council may direct the investigated person to pay, within the time set by the Council, all or part of the costs of the appeal in addition to costs referred to in section 41.1(1)(j).

Appeal to the Court

Court of Appeal

45.1(1) An investigated person may appeal to the Court of Appeal any finding, order or direction of the Council under section 45.

- (2) An appeal under this section may be commenced
- (a) by filing a notice of appeal with the clerk of the Court at Edmonton or Calgary, and
 - (b) by giving a copy of the notice of appeal to the Complaints Director and the complainant

within 30 days from the date on which the decision of the Council is given to the investigated person.

Appeal on record

46(1) The appeal to the Court of Appeal must be based on the record of the hearing before the Council and the Council's decision, including the reasons for the decision, all of which must be certified by the Hearings Director.

(2) The Hearings Director, at the expense of the appellant, must arrange for the preparation of the record of the hearing before the Council.

(3) If part of the hearing before the Council was held in private, the Hearings Director must ensure that the part of the record that relates to it is sealed.

(4) The part of a record that is sealed under subsection (3) may be reviewed by the Court of Appeal, and the Court of Appeal may direct that it remain sealed or that it be unsealed in whole or in part.

Power of Court on appeal

46.1(1) The Court of Appeal on hearing an appeal may

- (a) make any finding that in its opinion should have been made;
- (b) quash, confirm or vary the finding or order of the Council or any part of it;
- (c) refer the matter back to the Council for further consideration in accordance with any direction of the Court;
- (d) if the appeal is wholly or partly successful, direct that all or part of the cost of preparation of the record referred to in section 46 be repaid by the Association to the appellant or be applied to reduce the amount of penalties or costs otherwise payable to the Association by the appellant.

(2) The Court of Appeal may make any award as to the costs of an appeal to it that it considers appropriate.

Application to vary order

47 If the time for filing an appeal under this Part has passed or, due to a change in circumstances, an order under this Part is impossible to carry out, the person to whom the order is directed or the Complaints Director may apply to the Council for a variation of the order.

Division 6 General

Non-prejudicial orders

47.1 The Hearings Director may make any order with respect to clerical and administrative matters that the Hearings Director considers necessary to prevent prejudice to the investigated person.

Commissioner for oaths

48 The Complaints Director, a person appointed by the Complaints Director to conduct an investigation and any member of the Hearing Tribunal, the Council, a committee of the Council or the Complaint Review Committee is conferred with the powers of a commissioner for oaths under the *Commissioners for Oaths Act* for the purposes of an investigation, hearing, review or appeal under this Part.

17 Section 65 is amended

(a) in subsection (1)(a)

- (i) by adding** “or a complaint resolution process” **after** “preliminary investigation”;
- (ii) by striking out** “Discipline Committee” **and substituting** “Complaint Review Committee, the Hearing Tribunal, a committee of the Council”;
- (iii) by adding** “the Hearings Director, the Complaints Director,” **after** “Registrar.”;

(b) in subsection (2)

- (i) in clause (b) by striking out** “the Discipline Committee,” **and substituting** “a committee of the Council, the Complaint Review Committee, the Hearing Tribunal.”;
- (ii) in clause (c) by adding** “or a complaint resolution process” **after** “preliminary investigation”.

18 The following is added after section 65:

Assessing incapacity

65.1(1) If the Complaints Director or the Complaint Review Committee has grounds to believe that a registered veterinarian is incapacitated, whether or not a complaint has been made or deemed to have been made under section 27, the Complaints Director or Complaint Review Committee may refer the matter to a committee designated or established by the Council.

(2) The committee, on receipt of a referral under subsection (1), may direct the registered veterinarian to submit to specified physical or mental examinations, or both, by a person or at a facility specified by the committee and request the person or facility to report to the committee and the registered veterinarian within a time specified by the committee.

(3) On receipt of the results of any mental or physical examination under subsection (2), the committee may direct the registered veterinarian to submit to treatment recommended by the person or facility referred to in subsection (2), by a person or at a facility specified by the committee.

(4) The committee may request that the results of the person or facility providing the treatment under subsection (3) be provided to the committee and the registered veterinarian within the time specified by the committee.

(5) The committee may direct that the registered veterinarian cease practising veterinary medicine until a report is received under subsection (2) or, if a direction is made under subsection (3), cease practising veterinary medicine until the committee is satisfied that the registered veterinarian is no longer incapacitated, and the committee must notify the Registrar of the direction to cease practising veterinary medicine.

(6) If the registered veterinarian does not comply with a direction of the committee under subsection (2), (3) or (5),

- (a)** the committee must refer the matter to the Complaints Director to continue with the investigation process if a complaint was previously made with respect to a matter that arose because of the alleged incapacity, and
- (b)** if no complaint has been previously made with respect to a matter that arose because of the alleged incapacity, the committee may make a complaint respecting the matter to the Complaints Director under section 27.

(7) The registered veterinarian may appeal a direction of the committee under subsection (2), (3) or (5) to the Council.

(8) An appeal under subsection (7) must be in writing, must set out the grounds for the appeal and must be served on the Hearings Director within 7 days of receipt of the direction by the registered veterinarian.

(9) An appeal under subsection (7) must be conducted

- (a) as soon as reasonably practicable, and
- (b) in accordance with section 45.

(10) If a complaint has been made against a registered veterinarian and the committee

- (a) is satisfied that the matter complained of arose because of the incapacity of the registered veterinarian,
- (b) has made one or more directions under subsections (2) and (3), and
- (c) is satisfied that the registered veterinarian is complying with the directions made under subsection (3),

the committee may, at any time before the matter has been referred to the Hearings Director, suspend any proceedings with respect to the complaint for a period of time that the committee considers appropriate.

(11) Despite Part 5, if proceedings have been suspended under subsection (10) and the committee is satisfied that the registered veterinarian is no longer incapacitated, the committee may decide to suspend the proceedings indefinitely, with or without conditions.

(12) Despite a suspension of proceedings under subsection (10) or (11), the committee may, despite Part 5, at any time direct that the proceedings with respect to the complaint be resumed.

(13) If the committee suspends proceedings under subsection (10) or (11), the committee must within 14 days notify the complainant in writing of the suspension and the reasons for it.

Access to members information

65.2(1) If under Part 5 an annual certificate is suspended or cancelled, or if conditions are imposed on an annual certificate under Part 5 or a direction is made under section 65.1(5), the Registrar

- (a) must enter the information on the register,
- (b) must enter the information on the registered veterinarian's annual certificate, and
- (c) must provide the information to the governing bodies of the veterinary medicine profession in other provinces.

(2) The Registrar may publish in accordance with the bylaws

- (a) information referred to in subsection (1), and
- (b) orders and decisions under Part 5 and directions made under section 65.1(5).

(3) If a registered veterinarian appeals an order or a decision under Part 5 or appeals a direction under section 65.1(5) and a cancellation or suspension is lifted or the conditions are varied or removed, a reprimand is removed or a direction is cancelled, the Registrar must provide that information in the same manner as the information on the cancellation, suspension, conditions, reprimand or direction was provided under this section.

(4) The Association, on receipt of a request with respect to a named registered veterinarian and the payment of the costs referred to in section 43(3), must provide to a member of the public during regular business hours the following information with respect to the named registered veterinarian:

- (a) the information referred to in subsections (1) to (3), while the named registered veterinarian is registered with the Association;
- (b) the information described in section 43(3), for 2 years from the date the Hearing Tribunal or Council rendered its decision;
- (c) information as to whether a hearing is being held or is scheduled to be held, until the hearing is concluded;

(d) information as to whether a hearing has been held, for one year from the date the hearing was concluded.

(5) If the governing body of a veterinary medicine profession in another jurisdiction requests information as to whether a registered veterinarian or a former registered veterinarian is an investigated person, the Association may provide the information.

Notices

65.3(1) A notice to attend and a notice to produce must include the date, time and place at which attendance or production is required.

(2) The person who gives a notice to attend or a notice to produce may at any time amend the notice to correct errors or omissions of a minor or clerical nature.

(3) When this Act, the regulations or the bylaws require that a document or notice be given to any person, the document or notice is sufficiently given if it is given by personal service to that person or sent to that person by registered mail at that person's address last shown on the register or record of the Registrar or, if that is not reasonably possible, then by publishing the document or notice at least twice, and not more than a week apart, in a local newspaper circulating at or near the address last shown for that person in the records of the Registrar.

Record retention

65.4 The Association must keep, for at least 10 years,

- (a) a copy of ratified settlements and admissions of unprofessional conduct,
- (b) records of investigations and hearings, and
- (c) records of registration applications and reviews.

Records, evidence not admissible

65.5(1) Despite any other Act or law except the *Ombudsman Act*,

- (a) the Association,
- (b) a person who is or was an officer, employee or agent of the Association,

- (c) a person who conducts or has conducted an investigation or an alternative complaint resolution process under Part 5 or who is carrying out or has carried out powers and duties under Part 4, or
- (d) a person who is or was a member of the Council or a committee or the Hearing Tribunal of the Association

may not be required in any proceedings to give evidence relating to any matter that arose in any proceedings under this Act, the regulations or the bylaws, or to produce any record or thing adduced in evidence in proceedings under this Act, the regulations or the bylaws or forming part of the records of the Association that relate to proceedings under Part 5 or section 65.1 or to any matter under Part 4, except in

- (e) proceedings under this Act, or
- (f) a prosecution with respect to perjury or the giving of contradictory evidence.

(2) Subsection (1) does not apply to information described in section 65.2.

Complaints to Ombudsman

65.6(1) Any person may make a complaint with respect to anything under this Act in accordance with the *Ombudsman Act*.

(2) The Association, the Council or a board, committee, tribunal, the President, the Registrar, the Complaints Director or the Hearings Director of the Association or any officer, investigator or person engaged by the Association may, on the recommendation of the Ombudsman,

- (a) rehear any matter and reconsider any decision or recommendation made by that person or body, and
- (b) quash, confirm or vary the decision or recommendation or any part of it.

(3) If a matter is reheard or reconsidered pursuant to subsection (2), the provisions of this Act governing the original hearing or consideration apply to the rehearing or reconsideration.

Fines, costs are a debt

65.7 A fine or costs ordered to be paid under this Act are a debt due to the Association and may be recovered by the Association by an action in debt.

19(1) On the coming into force of this Act, any proceeding with respect to a complaint made before the coming into force of this Act that has not been concluded must be concluded in accordance with procedures that would apply if this Act had not come into force.

(2) On the coming into force of this Act, for the purpose of subsection (1), the powers and duties

- (a)** of the Registrar under sections 27(1) and 34(2) and (3) of the *Veterinary Profession Act* as they read immediately before this Act came into force are vested in and may be exercised by the Complaints Director, and any reference to the Registrar in those sections is deemed to be a reference to the Complaints Director;
- (b)** of the chairman of the Discipline Committee are vested in and may be exercised by the Complaints Director, and any reference to the chairman of the Discipline Committee in the *Veterinary Profession Act* as it read immediately before this Act came into force is deemed to be a reference to the Complaints Director;
- (c)** of the Discipline Committee under section 34 of the *Veterinary Profession Act* as it read immediately before this Act came into force are vested in and may be exercised by the Complaint Review Committee, and any reference to the Discipline Committee in that section 34 of the *Veterinary Profession Act* is deemed to be a reference to the Complaint Review Committee;
- (d)** of the Discipline Committee under section 37 of the *Veterinary Profession Act* as it read immediately before this Act came into force are vested in and may be exercised by the person or committee designated by the Council under this Act, and any reference to the Discipline Committee in that section 37 of the *Veterinary Profession Act* is deemed to be a reference to the person or committee;

- (e) of the Discipline Committee except under sections 34 and 37 of the *Veterinary Profession Act* as they read immediately before this Act came into force are vested in and may be exercised by the Hearing Tribunal, and any reference to the Discipline Committee in the *Veterinary Profession Act*, except in sections 34 and 37, as the *Veterinary Profession Act* read immediately before this Act came into force is deemed to be a reference to the Hearing Tribunal;
 - (f) of a person conducting a preliminary investigation are vested in and may be exercised by an investigator, and any reference to a person conducting a preliminary investigation in the *Veterinary Profession Act* as it read immediately before this Act came into force is deemed to be a reference to an investigator under this Act;
 - (g) of the Council under section 34(3) to (5) of the *Veterinary Profession Act* as it read immediately before this Act came into force are vested in and may be exercised by the committee of the Council;
 - (h) of the Council in Part 5, except under section 34(3) to (5), of the *Veterinary Profession Act* as it read before this Act came into force are vested in and may be exercised by the Council;
 - (i) of a member of the Discipline Committee under section 52 of the *Veterinary Profession Act* as it read immediately before this Act came into force are vested in and may be exercised by a member of a Hearing Tribunal;
 - (j) of the members of the Discipline Committee continue with the members of that Discipline Committee for the purposes of the hearing until it is concluded as if this Act had not come into force if a notice has been served on an investigated person under section 35 of the *Veterinary Profession Act* as it read immediately before this Act came into force and a hearing has commenced but has not been concluded.
- (3) For the purposes of subsection (2) references to the Discipline Committee in section 52 of the *Veterinary Profession Act* as it read immediately before this Act came into force are to be read as references to the Hearing Tribunal.

(4) Any complaint made on or after the coming into force of this Act that relates to conduct occurring all or partly before the coming into force of this Act must be dealt with in accordance with the *Veterinary Profession Act* as amended by this Act.

20(1) If this Act comes into force before the *Pharmacy and Drug Act* comes into force, subsection (2) is repealed and on the coming into force of the *Pharmacy and Drug Act* section 1(d.3) of the *Veterinary Profession Act* is amended by striking out “*Pharmaceutical Profession Act*” and substituting “*Pharmacy and Drug Act*”.

(2) If the *Pharmacy and Drug Act* comes into force before this Act comes into force, section 2(c) of this Act is amended in the new clause (d.3) on the coming into force of the *Pharmacy and Drug Act* by striking out “*Pharmaceutical Profession Act*” and substituting “*Pharmacy and Drug Act*” and subsection (1) is repealed.

21 The *Ombudsman Act* is amended

(a) in section 1 by adding the following after clause (d):

(e) “Veterinary Association” means

(i) the Alberta Veterinary Medical Association;

(ii) the Council, a board, committee or tribunal, the Registrar, Executive Director, Complaints Director and Hearings Director of the Alberta Veterinary Medical Association and any officer, investigator or person engaged by the Alberta Veterinary Medical Association;

(f) “Veterinary Registrar” means the Registrar as defined in the *Veterinary Profession Act*.

(b) in section 12(1) by adding “or by the Veterinary Association” after “or by an accounting organization”;

(c) in section 16

- (i) **in subsection (1) by adding “, Veterinary Registrar” after “head of the agency”;**
 - (ii) **in subsections (2) and (3) by striking out “Minister or” wherever it occurs and substituting “Minister, the Veterinary Registrar or the”;**
 - (iii) **in subsection (4)**
 - (A) **by adding “or the Veterinary Association” after “or college”;**
 - (B) **by adding “the Veterinary Registrar, the” after “head of the agency or”;**
- (d) in section 18**
- (i) **in subsection (1) by adding “or the Veterinary Association” after “college” wherever it occurs;**
 - (ii) **in subsection (2) by adding “or the Veterinary Association” after “agency” wherever it occurs;**
 - (iii) **in subsection (3)(a) by adding “or the Veterinary Association” after “college”;**
- (e) in section 21**
- (i) **in subsection (3) by adding “, Veterinary Association” after “department” wherever it occurs;**
 - (ii) **by adding the following before subsection (4):**

(3.2) If within a reasonable time after the report is made under subsection (3) to the Veterinary Registrar and no action is taken that seems to the Ombudsman to be adequate and appropriate, the Ombudsman may, after considering the comments, if any, made by or on behalf of the Veterinary Association, send a copy of the report to the appropriate Minister.
 - (iii) **in subsection (4)**
 - (A) **by adding “, Veterinary Association” after “, agency” wherever it occurs;**

**(B) by striking out “or agency” and substituting
“, agency or Veterinary Association”;**

**(iv) in subsection (5) by adding “, Veterinary Association”
after “agency”;**

**(f) in section 22(1) by adding “or (3.2)” before “and no action
that seems”;**

(g) in section 26

**(i) in subsection (1) by adding “or the Veterinary
Association” after “college”;**

**(ii) in subsection (2) by adding “, the Veterinary
Association” after “agency”;**

(h) in section 28

**(i) in subsection (2) by adding “or the Veterinary
Association” after “agency”;**

(ii) in subsection (3)

(A) by adding the following after clause (a):

(a.1) the Veterinary Association,

**(B) by adding “or the Veterinary Association” before
“an opportunity”.**

22 This Act comes into force on Proclamation.

Explanatory Notes

1 Amends chapter V-2 of the Revised Statutes of Alberta 2000.

2 Section 1 presently reads in part:

1 In this Act,

*(a) “animal” includes an unborn animal, but does not include a
human being;*

- (b) *“Association” means the Alberta Veterinary Medical Association;*
- (c) *“Council” means the Council of the Association;*
- (d) *“Discipline Committee” means the Discipline Committee established under section 29;*
- (p) *“veterinary medicine” means a medical service performed with respect to an animal and includes the following:*
 - (i) *surgery;*
 - (ii) *obstetrics and ova and embryo collection.*

Explanatory Notes

3 Annual report

Explanatory Notes

4 Section 7(3) and (4) presently read:

(3) The Council shall submit annually to the Minister in a form satisfactory to the Minister a report on those matters of the business and affairs of the Association that the Minister requires.

(4) The Minister shall, on receipt of the annual report of the Association, lay it before the Legislative Assembly if it is then sitting, and if it is not then sitting, within 15 days after the commencement of the next sitting.

5 Section 8 presently reads in part:

8(1) The Council shall consist of

- (a) at least 7 registered veterinarians or a greater number that may be prescribed by the bylaws, each of whom must be elected by the registered veterinarians at the time, in the manner and for the period provided for in the bylaws, and*
- (b) when the total number of elected registered veterinarians does not exceed 10, one member of the public, or when the number of elected registered veterinarians is more than 10, 2 members of the public, who must be appointed by the*

Minister after consultation with the Association for a one-year term of office.

(3) A member of the public referred to in subsection (1)(b) continues to hold office after the expiry of the member's term of office until the member is reappointed or the member's successor is appointed.

(4) The Minister may, after consultation with the Council, revoke the appointment of a member of the public referred to in subsection (1)(b).

(5) The Minister may pay to a member of the public referred to in subsection (1)(b) travelling and living expenses incurred by that member for the member's attendance at a meeting of the Council while away from the member's usual place of residence and fees in an amount prescribed by the Minister.

(6) The powers, duties and operations of the Council under this Act, the regulations and the bylaws are not affected by

- (a) the fact that no member of the public is appointed as a member of the Council pursuant to subsection (1)(b),*
- (b) the revocation under subsection (4) of the appointment of a member of the Council, or*
- (c) the resignation from the Council of a member of the public.*

(7) The failure of a member of the public appointed pursuant to subsection (1)(b) to attend a meeting of the Council shall not be construed to affect or restrict the Council from exercising any powers or performing any duties under this Act, the regulations or the bylaws at that meeting.

6 Complaints Director, Hearings Director, Hearing Tribunal, Complaint Review Committee.

Explanatory Notes

7 Section 11 presently reads in part:

(4) The Board may, after a review under this section with respect to an individual registered veterinarian or permit holder, make any order that the Discipline Committee may make under section 45 or 46.

(5) The provisions of Part 5 with respect to an investigation and hearing by the Discipline Committee apply to a review of a registered veterinarian or permit holder by the Practice Review Board under subsection (1)(b).

(6) The Board may at any time during an inquiry or review under this section recommend to the Discipline Committee that the inquiry or review be conducted by the Discipline Committee pursuant to Part 5.

(7) On receiving a recommendation under subsection (6), the Discipline Committee may proceed with an investigation and hearing under Part 5 as if the recommendation were a written complaint.

8 Section 12 presently reads:

12 A registered veterinarian or permit holder who is the subject of a review by the Practice Review Board may appeal any decision or order of the Board to the Council as if it were a decision or order of the Discipline Committee under Part 5.

9 Section 13 presently reads in part:

13(1) The Council may make regulations

- (g) respecting the powers, duties and functions of the Practice Review Board, including but not limited to the referral of matters by that Board to the Council or the Discipline Committee and appeals from decisions of that Board;*
- (h) prescribing the number of members that constitutes a quorum of the Council, the Practice Review Board, the Registration Committee or the Discipline Committee;*
- (n) governing, subject to this Act, the operation and proceedings of the Registration Committee, the Discipline Committee and the Practice Review Board;*
- (p) respecting the procedures of the Discipline Committee, of the Practice Review Board and of the Council in matters relating to the conduct or practice of registered veterinarians or permit holders, whether or not a complaint has been made;*
- (r) governing the publication of a notice of the suspension or cancellation of the registration of a registered veterinarian or permit holder in a form and manner prescribed by the Council;*
- (s) respecting committees of inquiry for reinstatement under Part 5;*
- (aa) respecting registration, the issuing of permits and certificates, disciplinary matters and the practice of veterinary medicine generally.*

(2) A regulation under subsection (1) does not come into force unless it has been approved by

- (a) a majority of the registered veterinarians*

- (i) *present and voting at a general meeting, or*
 - (ii) *voting in a mail vote conducted in accordance with the bylaws,*
- and*
- (b) *the Lieutenant Governor in Council.*

10 Section 14(1) presently reads in part:

14(1) The Council may make bylaws

- (a) *for the government of the Association and the management and conduct of its affairs;*
- (d) *respecting the nomination, election, number and term of office of Council members and officers of the Association and the appointment of individuals as members of the Council by virtue of their offices and any board or committee established by the Council and prescribing their powers, duties and functions;*
- (e) *governing, subject to this Act, the appointment of members of the Discipline Committee, the Registration Committee and the Practice Review Board, the designation of chair and vice-chair, the appointment of acting or alternate members and the procedures for filling vacancies on a Committee or the Board and the appointment to a Committee or the Board of members by virtue of their offices and prescribing their powers, duties and functions;*
- (v) *governing the publication of information with respect to the profession including but not limited to the publication of surveys of fees;*

11 Heading.

12 Section 26 presently reads:

26 In this Part,

- (a) *“conduct” includes an act or omission;*
- (b) *“investigated person” means a registered veterinarian, permit holder or student with respect to whose conduct an investigation or hearing is held under this Part.*

13 Heading.

14 Section 27 presently reads in part:

27(1) A person may complain to the Registrar in writing about the conduct of a registered veterinarian, permit holder or student, and the complaint shall be dealt with in accordance with this Part and the regulations.

(3) Notwithstanding section 30, the chair of the Discipline Committee or a person authorized to do so by the chair may designate a mediator to assist in settling a complaint if the complainant and the person about whose conduct the complaint was made agree to mediation, but if within 60 days from the date of receipt of the complaint or a longer period agreed to by those persons a settlement of the complaint between those persons does not occur, or in the mediator's opinion is not likely to occur, the complaint shall be referred forthwith by the mediator to the Discipline Committee.

15 Aware of unprofessional conduct.

16 Sections 28 to 60 presently read:

28(1) Any conduct of a registered veterinarian, permit holder or student that in the opinion of the Discipline Committee

- (a) is detrimental to the best interests of the public,*
- (b) contravenes a code of ethics of the profession as established under the regulations,*
- (c) harms or tends to harm the standing of the profession generally,*

- (d) *displays a lack of knowledge of or lack of skill or judgment in the practice of the profession, or*
- (e) *displays a lack of knowledge of or lack of skill or judgment in the carrying out of any duty or obligation undertaken in the practice of the profession,*

whether or not that conduct is disgraceful or dishonourable, constitutes either unskilled practice of the profession or unprofessional conduct, whichever the Discipline Committee finds.

(2) If an investigated person fails to comply with or contravenes this Act, the regulations or the bylaws, and the failure or contravention is, in the opinion of the Discipline Committee, of a serious nature, the failure or contravention may be found by the Discipline Committee to be unprofessional conduct whether or not it would be so found under subsection (1).

29(1) There is hereby established a Discipline Committee consisting of

- (a) *no fewer than 3 registered veterinarians appointed by the Council in accordance with the bylaws, and*
- (b) *one person appointed by the Minister from a list of no fewer than 3 members of the public nominated by the Council.*

(2) If the Council fails, within a reasonable period of time after being requested to do so by the Minister, to make the nominations for the purpose of subsection (1)(b), the Minister may appoint one member of the Discipline Committee without the Council's nomination.

(3) The Minister may pay to a member of the public appointed to the Discipline Committee travelling and living expenses incurred by that member for attendance at a meeting of the Committee away from that member's usual place of residence and fees in an amount prescribed by the Minister.

(4) The Minister may, after consultation with the Council, revoke the appointment of a member of the public appointed to the Discipline Committee.

(5) The powers, duties and functions of the Discipline Committee under this Act, the regulations and the bylaws are not affected by

- (a) *the fact that no member of the public is appointed as a member of the Committee,*
- (b) *the revocation of the appointment of a member of the public, or*
- (c) *the resignation as a member of the Committee of a member of the public.*

(6) The failure of a member of the public appointed to the Discipline Committee to attend a meeting of the Committee shall not be construed to affect or restrict the Committee from exercising any powers or performing any duties under this Act, the regulations or the bylaws at that meeting.

30 The Discipline Committee or a person appointed by it shall forthwith on the receipt of a complaint appoint a person to conduct a preliminary investigation with respect to the matter.

31 The Registrar shall forthwith send notice in writing to the investigated person that a preliminary investigation is being conducted.

32(1) A person conducting a preliminary investigation may

- (a) require the investigated person to produce to the person conducting the preliminary investigation any reports, books, papers or other documents or records, radiographs, photographs, specimens or materials in the investigated person's possession or under the investigated person's control, and*
- (b) copy and keep copies for the purposes of this Part of any of the documents or records that are produced to the person conducting the preliminary investigation.*

(2) A person conducting a preliminary investigation into the conduct of a registered veterinarian, permit holder or student may investigate any other matter regarding the conduct of the investigated person that arises in the course of the investigation.

33 The person conducting a preliminary investigation shall, forthwith on concluding the preliminary investigation, report the person's findings to the Discipline Committee.

34(1) The Discipline Committee may terminate an investigation at any time if it is of the opinion that

- (a) the complaint is frivolous or vexatious, or*
- (b) there is insufficient evidence of unskilled practice of the profession or unprofessional conduct.*

(2) On terminating an investigation, the Discipline Committee shall direct the Registrar to serve on the investigated person and on the complainant, if any, a notice that the investigation has been terminated.

(3) A complainant who is served with a notice under subsection (2) may, by notice in writing to the Registrar within 30 days after receipt of the notice under subsection (2), appeal that decision to the Council.

(4) On an appeal under subsection (3), the Council shall determine whether

- (a) the complaint is frivolous or vexatious,*
- (b) there is insufficient evidence of unskilled practice of the profession or unprofessional conduct, or*
- (c) the matter should be referred to the Discipline Committee for a hearing in accordance with this Part,*

and shall notify the complainant, the investigated person and the Discipline Committee in writing of its decision.

(5) If the Council finds that the complaint is frivolous or vexatious it may order the complainant to pay the costs, determined in accordance with the regulations, of the preliminary investigation and the appeal before the Council.

35(1) If the investigation is not terminated under section 34, the Discipline Committee shall hold a hearing into the complaint forthwith.

(2) The Registrar shall serve on the investigated person and on the complainant, if any, a notice of hearing stating the date, time and place at which the Discipline Committee will hold the hearing and giving reasonable particulars of the conduct or complaint in respect of which the hearing will be held.

36(1) The Discipline Committee may investigate and hear any other matter concerning the conduct of the investigated person that arises in the course of the preliminary investigation or the hearing, but in that event the Committee shall declare its intention to investigate and hear the further matter and shall permit the person sufficient opportunity to prepare the person's answer to the further matter.

(2) Sections 38 to 44 apply to an investigation and hearing of a further matter under subsection (1).

37(1) Notwithstanding anything in this Act, the Discipline Committee may suspend the registration of a registered veterinarian, permit holder or student pending a preliminary investigation or a decision by the Discipline Committee under section 44, 45 or 46.

(2) An investigated person may, by filing an originating notice with the Court of Queen's Bench and serving a copy on the Registrar, apply for an order of the Court of Queen's Bench staying a suspension by the Discipline Committee under subsection (1).

38 The Association and the investigated person may appear and be represented by counsel at a hearing before the Discipline Committee.

39 All proceedings under this Part except those before the Court of Queen's Bench or the Court of Appeal shall be held in camera.

40(1) Evidence may be given before the Discipline Committee in any manner that the Committee considers appropriate, and the Committee is not bound by the rules of law respecting evidence applicable to judicial proceedings.

(2) For the purposes of an investigation, hearing or review under this Act, the Registrar or any member of the Council, the Discipline Committee or the Practice Review Board is conferred with the power of a commissioner for oaths under the Commissioners for Oaths Act.

41(1) The investigated person and any other person who in the opinion of the Discipline Committee has knowledge of the complaint or any conduct being investigated are compellable witnesses in any proceeding under this Part.

(2) A witness may be examined on oath on all matters relevant to the investigation or hearing and shall not be excused from answering any question on the ground that the answer might

- (a) tend to incriminate the witness,*
- (b) subject the witness to punishment under this Part, or*
- (c) tend to establish the witness's liability*
 - (i) to a civil proceeding at the instance of the Crown or of any other person, or*
 - (ii) to prosecution under any Act or regulations under any Act,*

but if the answer so given tends to incriminate the witness, subjects the witness to punishment or tends to establish the witness's liability, it shall not be used or received against the witness in any civil proceedings, in a prosecution under Part 7 or in any proceeding under any other Act, except in a prosecution for or proceedings in respect of perjury or the giving of contradictory evidence.

(3) For the purpose of obtaining the testimony of a witness who is out of Alberta, a judge of the Court of Queen's Bench on an application ex parte by the Association may direct the issuing of a commission for the obtaining of the evidence of the witness, and the commission shall be issued and the evidence taken pursuant to the Alberta Rules of Court.

42(1) The attendance of witnesses before the Discipline Committee and the production of reports, books, papers and other documents or records, radiographs, photographs, specimens or materials may be enforced by a notice issued by the Registrar requiring the witness to attend and stating the date, time and place at which the witness is to attend and the documents, records or materials, if any, the witness is required to produce.

(2) On the written request of the investigated person or of the investigated person's counsel or agent, the Registrar shall without charge issue and deliver to that person or that person's counsel or agent any notices that the investigated person may require for the attendance of witnesses or the production of documents, records or materials.

(3) A witness, other than the investigated person, who has been served with a notice to attend or a notice for the production of documents or records under subsection (1) or (2) is entitled to be paid the same fees as are payable to witnesses in an action in the Court.

43(1) Proceedings for civil contempt of court may be brought against a witness

(a) who fails

(i) to attend before the Discipline Committee in compliance with a notice to attend,

(ii) to produce any books, papers or other documents or records, radiographs, photographs, specimens or materials in compliance with a notice to produce them, or

(iii) in any way to comply with either notice,

or

(b) who refuses to be sworn or to answer any question directed to be answered by the Discipline Committee.

(2) If the witness referred to in subsection (1) is the investigated person, the witness's failure or refusal may be held to be unprofessional conduct.

(3) The Discipline Committee, on proof of service of the notice of hearing on the investigated person and the complainant, if any, may

(a) proceed with the hearing in the absence of either or both of those persons, and

(b) act on the matter being heard in the same way as though either or both of those persons were in attendance.

44(1) The Discipline Committee may find that the conduct of an investigated person constitutes neither unskilled practice of the profession nor unprofessional conduct.

(2) The Discipline Committee may find that the conduct of an investigated person constitutes unskilled practice of the profession or unprofessional conduct, or both, and shall deal with the investigated person in accordance with this Part.

45(1) If the Discipline Committee finds that the conduct of the investigated person is unskilled practice of the profession or unprofessional conduct, or both, the Discipline Committee may make any one or more of the following orders:

- (a) reprimand the investigated person;*
- (b) suspend the registration of the investigated person for a specified period;*
- (c) suspend the registration of the investigated person either generally or from any field of practice until
 - (i) the investigated person has completed a specified course of studies or obtained supervised practical experience, or*
 - (ii) the Discipline Committee is satisfied as to the competence of the investigated person generally or in a specified field of practice;**
- (d) accept in place of a suspension the investigated person's undertaking to limit the investigated person's practice;*
- (e) impose conditions on the investigated person's entitlement to engage in the practice of the profession generally or in any field of the practice, including the conditions that the investigated person
 - (i) practise under supervision,*
 - (ii) not engage in sole practice,*
 - (iii) permit periodic inspections by a person authorized by the Discipline Committee, or*
 - (iv) report to the Discipline Committee on specific matters;**
- (f) direct the investigated person to pass a particular course of study or satisfy the Discipline Committee as to the investigated person's practical competence generally or in a field of practice;*
- (g) direct the investigated person to satisfy the Discipline Committee that a disability or addiction can be or has been overcome, and suspend the person until the Discipline Committee is so satisfied;*
- (h) require the investigated person to take counselling that in the opinion of the Discipline Committee or the Practice Review Board is appropriate;*
- (i) direct the investigated person to waive, reduce or repay a fee for services rendered by the investigated person that in the*

opinion of the Discipline Committee were not rendered or were improperly rendered;

- (j) cancel the registration of the investigated person;*
- (k) any other order that it considers appropriate in the circumstances.*

(2) If the Discipline Committee is satisfied that an investigated person has contravened an order under subsection (1), it may, without the necessity of a further hearing, cancel or suspend the registration of the investigated person subject to any terms it considers appropriate.

46(1) The Discipline Committee may, in addition to or instead of dealing with the investigated person in accordance with section 45, order that the investigated person pay

- (a) all or part of the costs of the hearing in accordance with the regulations,*
- (b) a fine not exceeding \$10 000 to the Association, or*
- (c) both the costs under clause (a) and a fine under clause (b),*

within the time fixed by the order.

(2) If the investigated person ordered to pay a fine, costs, or both, under subsection (1) fails to pay the fine, costs, or both, within the time ordered, the Discipline Committee may suspend the registration of that person until the person has paid the fine, costs or both.

47 A fine or costs ordered to be paid to the Association under this Part is a debt due to the Association and may be recovered by the Association by civil action for debt.

48(1) The Discipline Committee shall, within a reasonable time after the conclusion of a hearing, make a written decision on the matter, in which it shall

- (a) describe each finding made in accordance with this Part,*
- (b) state the reasons for each finding made, and*
- (c) state any order made under this Part.*

(2) The Discipline Committee shall immediately forward to the Registrar

- (a) the decision, and*
- (b) the record of the hearing, consisting of all evidence presented before it, including*

- (i) *all exhibits,*
- (ii) *all documents and records, and*
- (iii) *all testimony given before it, whether recorded electronically, mechanically or in handwritten form.*

(3) The Registrar shall, immediately on receiving the decision and the record of the hearing referred to in subsection (2), serve

- (a) a copy of the decision on the investigated person, and*
- (b) a notice of the nature of the decision on the complainant, if any.*

(4) The investigated person or the investigated person's counsel or agent may examine the record or any part of the record of the proceedings and hear any recording or examine any mechanical or handwritten form of record of any testimony.

49(1) Notwithstanding an appeal under this Part, the Discipline Committee may order that its decision remain in effect until the time that the Council or the Court of Appeal, as the case may be, makes its decision on the appeal.

(2) An investigated person may, by filing an originating notice with the Court of Queen's Bench and serving a copy on the Registrar, apply for an order of the Court of Queen's Bench staying the decision of the Discipline Committee pending the determination of the appeal.

50(1) An investigated person may appeal to the Council

- (a) a finding made by the Discipline Committee in accordance with section 44,*
- (b) an order of the Discipline Committee under section 45 or 46, or*
- (c) a finding referred to in clause (a) and an order referred to in clause (b).*

(2) The Council, of its own volition, may review

- (a) a finding made by the Discipline Committee in accordance with section 44,*
- (b) an order of the Discipline Committee made under section 45 or 46, or*
- (c) a finding referred to in clause (a) and an order referred to in clause (b).*

(3) An appeal or a review shall be commenced by a written notice that shall

- (a) describe the finding or order appealed from or to be reviewed,*
- (b) state the reasons for the appeal or review, and*
- (c) be served on the Registrar or the investigated person, as the case may be, not more than 30 days after the date that the decision of the Discipline Committee was served on the investigated person.*

(4) The Registrar shall make the record of the hearing before the Discipline Committee available to each member of the Council.

(5) This Part applies to a review as if it were an appeal under subsection (1).

51(1) The Council, on receiving a notice under section 50, shall serve on the investigated person a notice of hearing stating the date, time and place that the Council will hear the matter.

(2) The Council shall hear an appeal forthwith.

52(1) A member of the Discipline Committee who is also a member of the Council may participate in an appeal before the Council but shall not vote in a decision of the Council on the appeal.

(2) The Council on an appeal may do any or all of the following:

- (a) grant adjournments of the proceedings or reserve the determination of the matters before it for a future meeting of the Council;*
- (b) receive further evidence on granting special leave for that purpose;*
- (c) draw inferences of fact and make a determination or finding that in its opinion ought to have been made by the Discipline Committee;*
- (d) order that the matter be referred back to the Discipline Committee.*

(3) Sections 38 to 44, 48 and 49 apply with all necessary modifications to the hearing of an appeal by the Council.

(4) The Council shall forthwith after the date of the conclusion of all proceedings before it

- (a) make any finding as to the conduct of the investigated person that in its opinion ought to have been made by the Discipline Committee,*

- (b) quash, vary or confirm the finding or order of the Discipline Committee or substitute or make a finding or order of its own, or*
- (c) refer the matter back to the Discipline Committee for further consideration in accordance with any direction that the Council may make.*

(5) The Council may order the investigated person to pay the costs of the appeal determined in accordance with the regulations.

53(1) An investigated person may appeal to the Court of Appeal any finding or order made by the Council under section 52.

(2) The Association shall be the respondent in an appeal under subsection (1) and may make representations on the hearing of the appeal.

(3) An appeal under this section shall be commenced

(a) by filing a notice of appeal with the Registrar of the Court of Appeal in Edmonton or Calgary, and

(b) by serving a copy of the notice of appeal on the Registrar,

both within 30 days from the date on which the decision of the Council is served on the investigated person.

54 The appellant may, after commencing an appeal to the Court of Appeal and on notice to the Registrar, apply to the Court of Appeal for an order staying all or any part of the order or decision of the Council appealed pending the determination of the appeal.

55(1) An appeal under section 53 shall be supported by copies, certified by the Registrar, of the decision of the Council, the record of the appeal before the Council and any evidence received by the Council.

(2) The Registrar, on being paid any disbursements and expenses and on the request of the appellant or the appellant's solicitor or agent, shall furnish to the appellant or the appellant's solicitor or agent the number of copies so requested of the documents mentioned in subsection (1).

56(1) The Court of Appeal on hearing the appeal may do any or all of the following:

- (a) make any finding that in its opinion ought to have been made;*
- (b) quash, confirm or vary the order or decision of the Council or any part of it;*
- (c) refer the matter back to the Council for further consideration in accordance with any direction of the Court of Appeal;*

(d) *direct that a new trial of any mixed questions of law and fact relating to a finding or order or both a finding and an order of the Council made under this Part be held before the Court of Queen's Bench.*

(2) *The Court of Appeal may make any award as to the costs of an appeal to it that it considers appropriate.*

57(1) *If the Council is satisfied, after a hearing on the matter, that a person whose registration is entered in the register obtained registration by means of any false or fraudulent representation or declaration, either oral or written, the Council shall order that the person's registration be cancelled.*

(2) *The provisions of this Part respecting the procedures of the Discipline Committee apply to a hearing held by the Council under subsection (1).*

58(1) *If the registration of a registered veterinarian or permit holder has been cancelled or suspended under this Part, the registered veterinarian or permit holder shall forthwith surrender to the Registrar any certificate or permit issued to the registered veterinarian or permit holder.*

(2) *If the registration of a registered veterinarian or permit holder has been cancelled under this Part, the registration must not be reinstated in the register except by order of the Council, the Court of Queen's Bench or the Court of Appeal.*

(3) *No order shall be made under subsection (2) within one year after*

(a) *the date on which the registration was cancelled, or*

(b) *if an order was granted staying the imposition of a punishment imposed by the Council and the punishment is later confirmed by a Court, the date on which the Court made its order confirming the punishment.*

(4) *A member of the Council who is a member of a committee of inquiry appointed pursuant to the regulations to consider an application under this Part for reinstatement of registration may participate in or vote at any proceedings of the Council under this section, and the Registrar and the Association's solicitor may participate in those proceedings.*

59 *The conduct of a person who is or was registered as a registered veterinarian or permit holder who represents or holds out that the person is registered and in good standing while the person's registration is suspended or cancelled may be dealt with as being unprofessional conduct in accordance with this Part.*

60 *After a finding or order is made by the Discipline Committee, the Council or the Court of Appeal under this Part, the name of the*

investigated person may be published in accordance with the regulations.

17 Section 65 presently reads:

65(1) No action lies against

(a) any person conducting a preliminary investigation, a member of the Discipline Committee, the Practice Review Board, the Council or the Registration Committee, the Registrar, the Association or any person acting on the instructions of any of them, or

(b) any member, officer or employee of the Association

for anything done by the person in good faith and in purporting to act under this Act, the regulations or a bylaw that relates to or is incidental to a professional matter or a matter of public interest that is or may be the subject of a regulation under section 13.

(2) No action for defamation may be founded on a communication that consists of or pertains to a complaint regarding the conduct of a registered veterinarian, permit holder or student, if the communication is published to or by

(a) the Association,

(b) a member of the Council, the Discipline Committee, the Practice Review Board or the Registration Committee,

(c) a person conducting a preliminary investigation,

(d) an officer or employee of the Association, or

(e) a person acting on the instructions of any of them

in good faith in the course of investigating the complaint or in the course of any proceedings under Part 5 relating to the complaint.

18 Miscellaneous matters.

19 Transitional.

20 Consequential amendments.

21 Consequential amendments.

22 Coming into force.

Explanatory Notes