

This is an **unofficial version**.

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It has been in effect since **December 15, 1999**, when this Act came into force.

C.C.S.M. c. V30 THE VETERINARY MEDICAL ACT

PART 1

DEFINITIONS

Definitions

1 In this Act,

"**animal**" means any creature not human; (« animal »)

"**animal health technologist**" means a person who meets the requirements of an animal health technologist provided for in the by-laws; (« technicien vétérinaire »)

"**association**" means the Manitoba Veterinary Medical Association; (« Association »)

"**by-laws**" means the by-laws of the council made under section 7; (« règlements administratifs »)

"**certificate of registration**" means a certificate issued by the association confirming that a person is entered on the register; (« certificat d'inscription »)

"**council**" means the council of the association; (« Conseil »)

"**employee**" means an employee within the meaning of *The Employment Standards Code*; (« employé »)

"**licence**" means an annual licence to practise veterinary medicine issued under section 15; (« permis »)

"**licensed member**" means a member who holds a licence; (« membre autorisé »)

"**member**" means a person who holds a certificate of registration under this Act; (« membre »)

"**minister**" means the minister appointed by the Lieutenant Governor in Council to administer this Act; (« ministre »)

"**register**" means the register established under section 9. (« Registre »)

PART 2

PRACTICE OF VETERINARY MEDICINE

Practice of veterinary medicine

2(1) The practice of veterinary medicine means the branch of knowledge that relates to maintaining the health of animals and to preventing, diagnosing and treating diseases of and injuries to animals.

Included practices

2(2) Without restricting the generality of subsection (1), a person who does any of the following engages in the practice of veterinary medicine within the meaning of this Act:

- (a) prescribes or dispenses a drug, veterinary biologic, medicine, appliance or treatment of whatever nature for an animal;
- (b) administers a drug, veterinary biologic, medicine, appliance or treatment of whatever nature to an animal;
- (c) performs a surgical operation on an animal;
- (d) performs any procedure for the diagnosis of pregnancy, sterility or infertility on an animal;

- (e) engages in the practice of obstetrics or ova collection or embryo transfer for animals;
- (f) engages in the practice of veterinary dentistry;
- (g) certifies the cause of death of an animal.

Exclusive right to practise veterinary medicine

3(1) No person other than a licensed member shall engage in the practice of veterinary medicine.

Exemptions

3(2) Subsection (1) does not apply to prevent a person from

- (a) providing first aid to an animal in an emergency without remuneration;
- (b) administering a drug, veterinary biologic, medicine, appliance or treatment of any kind to an animal if the person is
 - (i) the owner of the animal or an employee of the owner,
 - (ii) a veterinary student or an animal health technologist acting in accordance with the by-laws, or
 - (iii) a person or a member of a class of persons specified in the by-laws while acting under the supervision of a member;
- (c) castrating and taking poultry blood samples;
- (d) engaging in the study, prevention or treatment of fish diseases;
- (e) the technical performance of artificial insemination;
- (f) before weaning age, castrating male calves, piglets and lambs, dehorning cattle and docking lambs;
- (g) trimming hooves of animals;
- (h) engaging in an activity that is authorized in a regulation under *The Livestock Industry Diversification Act*, if he or she has received training in the activity as required by that regulation; or
- (i) using an animal for a research purpose if the research is carried out using acceptable veterinary procedures and the use of the animal has been approved by an appropriate research institute whose operation is consistent with current national standards of practice for research.

Representation as a veterinarian

4(1) No person except a licensed member shall

- (a) represent or hold out, expressly or by implication, that he or she is entitled to engage in the practice of veterinary medicine, veterinary surgery or veterinary dentistry; or
- (b) use any sign, display or advertisement implying that he or she is a veterinarian.

Use of titles

4(2) No person except a member shall use the title "veterinarian", a variation or abbreviation of that title, or an equivalent in another language.

PART 3

MANITOBA VETERINARY MEDICAL ASSOCIATION

Association

5(1) The Manitoba Veterinary Medical Association is continued as a body corporate.

Powers

5(2) The association has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

Membership

5(3) The membership of the association consists of the persons whose names are on the register and who have paid the required fees.

Meetings

5(4) A general meeting of the association shall be held at least once a year. Special general meetings of the association may be held when the council considers it advisable or when such a meeting is requested, in writing, by members of the association in accordance with the by-laws.

Notice of meetings

5(5) Notice of the time and place of each meeting referred to in subsection (4) shall be given in accordance with the by-laws.

Council established

6(1) There shall be a council that is the governing body of the association.

Composition of council

6(2) The council shall consist of not less than six licensed members of the association and the immediate past president.

Quorum

6(3) A majority of the members of council constitute a quorum for the transaction of business.

Election of members

6(4) The members of council shall be elected by the members of the association in accordance with the by-laws. The terms of office of the members of council shall be determined in accordance with the by-laws.

Vacancies

6(5) The council may fill any vacancy on the council by appointing a member of the association, who is qualified to be elected to the council, for the unexpired term.

By-laws

7(1) The council may pass by-laws

- (a) respecting the aims and objectives of the association;
- (b) governing the practice of veterinary medicine;
- (c) for the purpose of subclause 3(2)(b)(iii), specifying persons who may administer a drug, veterinary biologic, medicine, appliance or treatment to an animal;
- (d) establishing classes of members and governing the rights, privileges and obligations of each class, including the requirements for members to be able to vote;
- (e) respecting requirements for and the categories of registration and licensure in the association;
- (f) respecting academic standards and examination requirements for membership in the association;
- (g) respecting the registration of veterinary students and the duties and responsibilities of students during their employment by members;
- (h) respecting the registration of animal health technologists and the duties and responsibilities of animal health technologists during their employment by members;**
- (i) respecting the keeping of the register;
- (j) governing the practice of veterinary medicine in Manitoba by veterinarians licensed to practise in another Canadian jurisdiction, including by-laws respecting the terms and conditions under which they are entitled to practise;
- (k) respecting standards of practice for members;
- (l) respecting a code of ethics for members;
- (m) respecting continuing education requirements for members;

- (n) controlling the manner in which a member may describe his or her qualifications or occupation and prohibiting the use of any term, title or designation that in the opinion of the council is calculated to mislead the public;
- (o) respecting the election of members of the council, the filling of vacancies on the council and prescribing the terms of office and the duties of members;
- (p) governing the establishment and operation of committees of the association;
- (q) providing for the appointment of officers and employees of the association and prescribing their duties;
- (r) respecting the calling and conduct of meetings of the association;
- (s) respecting the holding of votes on any matter relating to the association, including voting by mail or any other method;
- (t) governing scholarships, bursaries and prizes;
- (u) defining "supervision" for any purpose required under this Act or the by-laws;
- (v) governing the management of the association's real and personal property;
- (w) respecting the professional liability insurance or other liability protection that a member must carry;
- (x) governing the relationship of the association with the Canadian Veterinary Medical Association;
- (y) respecting any other matter the council considers necessary or desirable for the working or management of the association or the study or advancement of veterinary medicine.

Ratification of by-laws

7(2) A by-law may be enacted, amended or repealed by a majority of the members of the association by one of the following methods, as determined by the council:

- (a) members present and voting at a general meeting, including the annual meeting of the association;
- (b) members voting in a mail vote or other method of voting conducted in accordance with the by-laws.

Duties and functions of council

8(1) The council shall manage and conduct the affairs of the association and may, by resolution,

- (a) make rules respecting the calling and conduct of meetings of the council and the performance of its duties;
- (b) provide for the remuneration and expenses of officers and employees of the association and of members of the council and committees;
- (c) establish the annual budget for the association;
- (d) enter into contracts and agreements on behalf of the association;
- (e) determine the fees to be paid by members to the association, including fees to be paid by applicants for registration, fees for licences to practise, and fees to be paid by applicants for registration as veterinary students and animal health technologists;
- (f) suspend from practice or cancel the registration of a member for non-payment of any fees or penalties due under this Act or the by-laws, and establish terms for the reinstatement of suspended members.

Exceptions

8(2) Despite subsection (1), if a matter involves unusual expenditures of money in an amount that exceeds an amount specified in the by-laws, or involves the membership of the association in a contract for a period of more than one year, the council shall act only under the authority of a by-law.

REGISTRATION AND LICENSING

REGISTRATION

Register of members

[9\(1\)](#) The council shall keep a register and enter in it the name of every person registered under this Act, the category of membership held by the person and any other information required by the by-laws.

Registrar

[9\(2\)](#) The council shall appoint a registrar who shall be responsible for keeping the register, issuing certificates of registration and licences to members and performing any other duties assigned to the registrar by this Act, the by-laws or the council.

Application for registration

[10\(1\)](#) An application for registration as a member must be made to the registrar and be accompanied by evidence of compliance with the requirements for registration provided for in the by-laws.

Registrar to issue certificate

[10\(2\)](#) On entering the name of a person in the register, the registrar shall issue a certificate of registration to the person.

Cancellation if member fails to renew for two years

[10\(3\)](#) The council may cancel the registration of a member who, without the council's approval, fails to renew his or her licence for two consecutive years.

Application for registration not approved

[11](#) If the registrar does not approve an application for registration, he or she shall give notice to the applicant in writing, with reasons for the decision, and shall advise the applicant of the applicant's right to appeal the decision to the council.

Appeal to council

[12\(1\)](#) A person whose application for registration is not approved by the registrar may appeal the decision to the council by filing a written notice of appeal within 30 days after receiving the notice of refusal, specifying the reasons for the appeal.

Hearing

[12\(2\)](#) On receiving a notice of appeal, the council shall

- (a) schedule an appeal of the applicant's application for registration within 90 days after receipt of the notice of appeal; and
- (b) give written notice to the applicant of the date, time and place of the appeal.

Right to appear and make representations

[12\(3\)](#) An applicant who appeals a decision of the registrar under this section is entitled to appear with counsel at the appeal and make representations to the council.

Participation by registrar

[12\(4\)](#) The registrar may participate in the appeal and make submissions to the council.

Decision by council

[12\(5\)](#) On considering an appeal under this section, the council may make any decision the registrar could have made and shall give written notice of its decision to the registrar and the applicant.

Appeal from decision of council

[13\(1\)](#) A person whose application for registration is refused by the council may appeal the decision to the Court of Queen's Bench by filing a notice of appeal within 30 days after the date on which the applicant is notified of the refusal.

Powers of court on appeal

[13\(2\)](#) On hearing an appeal, the court may

- (a) make any decision that in its opinion should have been made; or

- (b) refer the matter back to the council for further consideration in accordance with any direction of the court.

CANCELLATION OF REGISTRATION

Registration may be cancelled if fraud

[14\(1\)](#) If the registrar is satisfied on reasonable grounds that a person's registration has been obtained by means of a false or fraudulent representation or declaration, the registrar shall report the matter to the council, and the council may direct the registrar to cancel the person's registration. The registrar shall then cancel the registration and give the person written notice of that fact.

Registration may be cancelled if member convicted

[14\(2\)](#) The council may direct the registrar to cancel the registration of a member who has been convicted of an offence that is relevant to his or her suitability to practise, but it must first notify the member that it intends to do so and give the member an opportunity to make representations.

Appeal

[14\(3\)](#) A member whose registration is cancelled under this section may appeal the cancellation to the Court of Queen's Bench, in which case section 13 applies with necessary modifications.

ANNUAL LICENCE

Annual licence

[15\(1\)](#) A registered member who is engaged in the practice of veterinary medicine shall pay to the association the annual licence fee prescribed by the council for the category of licence applicable to that member.

Issuance of annual licence

[15\(2\)](#) When a member pays the annual licence fee and complies with any other requirements specified in the by-laws, the registrar shall issue a licence to the member in a form approved by the by-laws.

Duration of licence

[15\(3\)](#) A licence remains in force for the period provided for in the by-laws and may be renewed in accordance with this Act and the by-laws.

TEMPORARY REGISTRATION AND LICENCE

Temporary registration and licence

[16\(1\)](#) In accordance with any directions of the council, the registrar may issue a temporary certificate of registration and licence to a person who

- (a) has met the academic requirements for registration provided for in the by-laws; and
- (b) has applied to take any examinations provided for in the by-laws.

Terms and conditions

[16\(2\)](#) A temporary certificate and licence may be issued under subsection (1) for any period of time and subject to any terms and conditions that the council considers appropriate.

REGISTRATION OF ANIMAL HEALTH TECHNOLOGISTS

Register of animal health technologists

[17\(1\)](#) A person who meets the requirements for registration provided for in the by-laws may apply to the registrar to be registered as an animal health technologist.

Employment of animal health technologists

[17\(2\)](#) In accordance with the by-laws, a member may employ an animal health technologist who is registered under subsection (1) and may charge and collect fees for services performed by the technologist.

PART 5

DISCIPLINE

PEER REVIEW COMMITTEE

Peer review committee

[18\(1\)](#) There shall be a peer review committee consisting of at least nine persons appointed in accordance with this section.

Purpose of committee

[18\(2\)](#) The purpose of the peer review committee is to provide a roster of persons who may be appointed as members of the complaints committee, the appeals committee and any inquiry panel established under this Part.

Membership

[18\(3\)](#) At least six members of the peer review committee shall be members of the association appointed by the council, and at least three members of the committee shall be public representatives who are not, and have never been, members of the association.

Public representatives

[18\(4\)](#) The public representatives of the peer review committee shall be appointed by the council, with the approval of the minister, for two-year terms.

Appointment of successor

[18\(5\)](#) The public representatives continue to hold office after the expiry of their terms until reappointed or until a successor is appointed.

Chairperson

[18\(6\)](#) The council shall appoint one member of the peer review committee to be chairperson of the committee.

COMPLAINTS COMMITTEE

Complaints committee

[19](#) The chairperson of the peer review committee shall from time to time appoint at least two members of that committee as a complaints committee.

Complaints

[20\(1\)](#) Any person may make a complaint in writing to the association about the conduct of a member of the association, and the complaint shall be dealt with in accordance with this Part.

Complaints against former members

[20\(2\)](#) If, after the certificate of registration or licence of a member is suspended, cancelled or not renewed under this Act or any predecessor to this Act,

- (a) a complaint is made about the former member; and
- (b) the complaint relates to conduct occurring while the former member's registration or licence was in effect;

the complaint may be dealt with within five years following the date of suspension, cancellation or failure to renew as if the former member's registration or licence were still in effect.

Referral to complaints committee

[21\(1\)](#) The registrar shall refer a matter to the complaints committee if

- (a) a complaint is made under subsection 20(1); or
- (b) the registrar or the council considers a referral to be advisable.

Informal resolution

[21\(2\)](#) The complaints committee shall review a complaint or other matter referred to it and may attempt to resolve it informally if the committee considers informal resolution to be appropriate.

Advice to the member

[21\(3\)](#) On resolving a complaint or other matter, the complaints committee may provide any advice to the member that it considers necessary or appropriate.

Investigation

22(1) When a matter is referred to the complaints committee, the committee may direct that an investigation into the conduct of a member be held, and for that purpose may appoint a person to conduct the investigation and may engage legal counsel and employ other expert assistance.

Records and information

22(2) A person conducting an investigation may

- (a) require the investigated member or any other member to produce to the investigator any records, documents and things in his or her possession or under his or her control that may be relevant to the investigation;
- (b) require the investigated member, or any other member who may have information relevant to the investigation, to attend before the person conducting the investigation to be interviewed; and
- (c) direct an inspection or audit of the practice of the investigated member.

Failure to produce records

22(3) The association may apply, without notice, to the Court of Queen's Bench for an order

- (a) directing any member to produce to any person conducting an investigation any records, documents and things in his or her possession or control, if it is shown that the member failed to produce them when required by the person conducting the investigation; or
- (b) directing any person who is not a member of the association to produce to a person conducting an investigation any records, documents and things that are or may be relevant to the matter being investigated.

Investigation of other matters

22(4) A person conducting an investigation may investigate any other matter related to the professional conduct or the skill in practice of the investigated member that arises in the course of the investigation.

Report to complaints committee

22(5) At the conclusion of an investigation, the person conducting it shall report his or her findings to the complaints committee.

DECISION OF COMPLAINTS COMMITTEE

Decision of complaints committee

23(1) After a review or an investigation, the complaints committee may do one or more of the following:

- (a) direct that the matter be referred, in whole or in part, to the peer review chairperson to establish an inquiry panel under subsection 30(1);
- (b) direct that no further action be taken;
- (c) issue a formal caution to the investigated member censuring the member's conduct if
 - (i) the complaints committee has met with the member and the member has agreed to accept the caution, and
 - (ii) the complaints committee has determined that no action is to be taken against the member other than the formal caution;
- (d) enter into an agreement with the investigated member or accept an undertaking from the member that provides for one or more of the following:
 - (i) assessing the member's capacity or fitness to practise veterinary medicine,
 - (ii) counselling or treatment of the member;
 - (iii) monitoring or supervising the member's practice of veterinary medicine;
 - (iv) the member completing a specific course of studies by way of remedial training;

- (v) placing restrictions or conditions on the member's certificate of registration or licence;
- (e) accept the voluntary surrender of the investigated member's certificate of registration or licence;
- (f) refer the matter to mediation if the complaints committee determines that the complaint is strictly a matter of concern to the complainant and the investigated member and both parties agree to mediation; or
- (g) take any other action that it considers appropriate in the circumstances that is not inconsistent with or contrary to this Act or the by-laws.

Notice to member and complainant

[23\(2\)](#) The complaints committee shall notify the investigated member and the complainant in writing of the committee's decision under subsection (1) and the reasons for the decision.

Hearing not required

[23\(3\)](#) Except when required by clause (1)(c), the complaints committee is not required to hold a hearing or to give any person an opportunity to appear or to make oral representations, before making a decision under this section.

Matter not resolved by mediation

[24](#) If a matter referred to mediation under clause 23(1)(f) cannot be resolved, it must be referred back to the complaints committee which may make any other decision under subsection 23(1) that it considers appropriate.

FORMAL CAUTION

Publication of caution

[25\(1\)](#) The complaints committee may publish the fact that a formal caution has been issued to an investigated member under clause 23(1)(c) as well as a description of the circumstances that led to the caution, but the publication shall not include the name of the member.

Order for costs

[25\(2\)](#) If the complaints committee issues a formal caution to an investigated member, it may also order the member to pay all or part of the costs of the investigation up to the issuance of the caution.

No appeal of formal caution

[25\(3\)](#) The issuance of a formal caution cannot be appealed.

VOLUNTARY SURRENDER OF REGISTRATION OR LICENCE

Voluntary surrender of registration or licence

[26\(1\)](#) If the complaints committee accepts the voluntary surrender of an investigated member's certificate of registration or licence, it may direct the member to do one or more of the following, to the satisfaction of any person or committee that the complaints committee may determine, before the member's right to practise may be reinstated:

- (a) obtain counselling or treatment;
- (b) complete a specified course of studies;
- (c) obtain supervised clinical experience.

Order for costs

[26\(2\)](#) The complaints committee may direct the investigated member to pay all or part of the costs incurred by the association in monitoring compliance with a direction given under subsection (1), and to pay all or part of the costs of the investigation up to the time that the certificate of registration or licence is surrendered.

Conditions on re-instatement

[26\(3\)](#) A voluntary surrender remains in effect until the complaints committee is satisfied that the conduct or complaint that was the subject of the investigation has been resolved, at which time the complaints committee may impose conditions on the investigated member's

entitlement to engage in the practice of veterinary medicine, including conditions that the investigated member do one or more of the following:

- (a) limit his or her practice;
- (b) practise under supervision;
- (c) not engage in sole practice;
- (d) permit periodic inspections of the member's practice;
- (e) permit periodic audits of records;
- (f) report on specific matters to any person or committee that the complaints committee may determine;
- (g) comply with any other conditions that it considers appropriate in the circumstances;

and may order the member to pay all or part of the costs incurred by the association in monitoring compliance with such conditions.

Referral to peer review chairperson

[26\(4\)](#) Despite any other action it may have taken, with the exception of a formal caution, the complaints committee may at any time refer the conduct or complaint that it has reviewed to the peer review chairperson for formal inquiry.

APPEALS COMMITTEE

Appeals committee

[27\(1\)](#) The peer review chairperson shall from time to time, from among the members of the peer review committee, appoint an appeals committee consisting of at least three members, and shall name one of them as chairperson.

Public representative

[27\(2\)](#) One of the members of the appeal committee shall be a public representative.

Members not to have taken part in complaints committee review

[27\(3\)](#) No person who was a member of the complaints committee reviewing a matter under investigation shall be a member of the appeals committee hearing the appeal of that matter.

Appeal to appeals committee

[28\(1\)](#) If the complaints committee makes a decision under clause 23(1)(b) (d), (e) or (g), the complainant may appeal the decision to the appeals committee.

Form of appeal

[28\(2\)](#) An appeal shall be made in writing to the chairperson of the peer review committee, giving reasons for the appeal, and must be received by the association within 30 days after the date the complainant is notified of the decision of the complaints committee.

Power on appeal

[28\(3\)](#) On an appeal, the appeals committee shall do one or more of the following:

- (a) make any decision that in its opinion ought to have been made by the complaints committee;
- (b) quash, vary or confirm the decision of the complaints committee;
- (c) refer the matter back to the complaints committee for further consideration in accordance with any direction that the appeals committee may make.

Notice of decision

[28\(4\)](#) The appeals committee shall give the investigated member and the complainant a written notice setting out the committee's decision and the reasons for its decision.

Hearing not required

[28\(5\)](#) The appeals committee is not required to hold a hearing or to afford to any person an opportunity to appear or to make oral submissions before making a decision under this

section, but the committee shall give the complainant an opportunity to make a written submission.

SUSPENSION OF REGISTRATION AND LICENCE PENDING DECISION

Suspension pending decision

[29\(1\)](#) Despite anything in this Act, the council may direct the registrar to suspend, or to impose conditions of practice on, one or both of an investigated member's certificate of registration or licence pending the outcome of proceedings under this Act, when there is a question of serious risk to the public.

Notice of suspension

[29\(2\)](#) On receiving a direction under subsection (1), the registrar shall serve a notice of the suspension on the investigated member.

Application for stay

[29\(3\)](#) The investigated member may apply for an order of the court staying a direction of the council under subsection (1) by filing an application with the Court of Queen's Bench and serving a copy on the association.

APPOINTMENT OF INQUIRY PANEL

Establishment of inquiry panel

[30\(1\)](#) When a matter is referred to the chairperson of the peer review committee

- (a) by the complaints committee under clause 23(1)(a) or subsection 26(4); or
- (b) by the appeals committee under subsection 28(3);

the chairperson shall establish an inquiry panel consisting of at least three members of the peer review committee, one of whom shall be a public representative.

Chairperson

[30\(2\)](#) The inquiry panel shall elect a chairperson from among its members.

Members not to have taken part in investigation

[30\(3\)](#) No person who investigated the conduct of the investigated member, or who participated in a review of the matter as a member of the complaints committee or the appeals committee, shall be a member of the inquiry panel concerning the same matter.

Procedure

[31](#) The inquiry panel shall determine its own practice and procedure.

HEARING

Hearing by inquiry panel

[32\(1\)](#) When an inquiry panel is established, it shall hold a hearing.

Date of hearing

[32\(2\)](#) The hearing shall commence on a date within 60 days after the date on which the matter is referred, unless the investigated member consents in writing to a later date.

Notice of hearing

[32\(3\)](#) At least 21 days before the date of the hearing, the registrar shall serve on the investigated member and the complainant a notice of hearing stating the date, time and place at which the inquiry panel will hold the hearing and identifying in general terms the complaint or matter in respect of which the hearing will be held.

Inquiry panel and registrar may have counsel

[33\(1\)](#) The inquiry panel and the committee that referred the matter to the peer review chairperson may each have counsel to assist them at a hearing.

Right to appear and be represented

[33\(2\)](#) The investigated member may appear and be represented by counsel, at his or her expense, at a hearing before the inquiry panel.

Member may examine documentary evidence

[33\(3\)](#) The investigated member shall be afforded an opportunity to examine, before the hearing, any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Member to provide documentary evidence

[33\(4\)](#) If the investigated member intends to rely on any written or documentary evidence or any report at the hearing, he or she shall provide a copy of that evidence or report to the association before the day of the hearing.

Evidence of expert without report

[33\(5\)](#) If either the investigated member or the association intends to call an expert as a witness at the hearing, and there is no report from the expert, a summary of the expert's intended evidence, including his or her findings, opinions and conclusions, shall be provided to the other party before the date of the hearing.

Failure to provide summary

[33\(6\)](#) If a summary is not provided in accordance with subsection (5), the expert may testify at the hearing only with the leave of the inquiry panel.

Hearing open to public

[34\(1\)](#) Except as otherwise provided in this section, a hearing of the inquiry panel shall be open to the public, but there shall not be reporting in the media of anything that would identify the investigated member, including the member's name, the business name of the member's practice or partnership, or the location of practice, unless and until the inquiry panel makes any of the findings under section 40.

Request for hearing in private

[34\(2\)](#) The investigated member or any committee referring a matter for formal inquiry may request that the hearing or any part of it be held in private.

Hearing in private

[34\(3\)](#) When a request is made under subsection (2), the inquiry panel may exclude the public from the hearing or any part of the hearing, or may direct that the investigated member or any witness be identified only by initials, if the inquiry panel is satisfied that

- (a) matters involving public security may be disclosed;
- (b) financial or personal or other matters may be disclosed at the hearing that are of such a nature that the desirability of avoiding public disclosure of those matters in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that meetings be open to the public;
- (c) a person involved in a criminal proceeding or in a civil suit or proceeding may be prejudiced; or
- (d) the safety of a person may be jeopardized.

Reasons for excluding the public to be available

[34\(4\)](#) If the inquiry panel makes an order under subsection (3), it shall give its reasons at the hearing.

Investigation of other matters

[35](#) The inquiry panel may investigate and hear any other matter concerning the professional conduct or the skill in practice of an investigated member that arises in the course of its proceedings, but in that event the panel shall declare its intention to investigate the further matter and shall permit the member sufficient opportunity to prepare a response to the further matter.

Evidence

[36\(1\)](#) At a hearing before the inquiry panel, the oral evidence of witnesses shall be taken on oath or affirmation, and there shall be a full right to cross examine witnesses and call evidence in defence and reply.

Power to administer oaths

[36\(2\)](#) For the purpose of an investigation or hearing under this Act, the chairperson of the inquiry panel has power to administer oaths and affirmations.

Recording of evidence

[36\(3\)](#) The oral evidence given at a hearing of the inquiry panel shall be recorded.

Adjournments

[36\(4\)](#) The chairperson of the inquiry panel may adjourn a hearing from time to time.

Proof of conviction

[37](#) For the purposes of proceedings under this Act, a certified copy, under the seal of the Court of Queen's Bench or signed by the convicting judge or the clerk of the Provincial Court, of the conviction of a person for any crime or offence under any Act or regulation is conclusive evidence that the person has committed the crime or offence stated, unless it is shown that the conviction has been quashed or set aside.

Witnesses

[38\(1\)](#) Any person, other than the investigated member, who, in the opinion of the inquiry panel, has knowledge of the complaint or matter being investigated is a compellable witness in any proceeding before the inquiry panel.

Notice to attend and produce records

[38\(2\)](#) The attendance of witnesses before the inquiry panel and the production of records may be enforced by a notice issued by the registrar or the chairperson of the peer review committee, requiring the witness to attend and stating the date, time and place at which the witness is to attend and the records, if any, that the witness is required to produce.

Notices for witnesses

[38\(3\)](#) On the request of the investigated member or the member's counsel or agent, the registrar or peer review chairperson shall provide any notices that the member requires for the attendance of witnesses or the production of records.

Witness fees

[38\(4\)](#) A witness who has been served with a notice to attend or a notice for production under this section is entitled to be paid the same fees in the same manner as are payable to a witness in an action in the Court of Queen's Bench.

Failure to attend or give evidence

[38\(5\)](#) Proceedings for civil contempt of court may be brought against a witness

- (a) who fails to attend before the inquiry panel in compliance with a notice to attend;
- (b) who fails to produce any records in compliance with a notice to produce them; or
- (c) who refuses to be sworn or to affirm or to answer any question he or she is directed to answer by the inquiry panel.

Hearing in absence of investigated member

[39](#) The inquiry panel may, on proof of service of the notice of hearing on the investigated member,

- (a) proceed with the hearing in the absence of the member or the member's agent; and
- (b) act, decide or report on the matter being heard in the same way as if the member were in attendance.

DECISION OF INQUIRY PANEL

Findings of inquiry panel

[40](#) If, at the conclusion of a hearing, the inquiry panel finds that the investigated member

- (a) is guilty of professional misconduct;
- (b) is guilty of conduct unbecoming a member;
- (c) has contravened this Act or the by-laws or the code of ethics adopted under this Act;

- (d) has been found guilty of an offence that is relevant to his or her suitability to practise veterinary medicine;
- (e) has displayed a lack of knowledge of or lack of skill or judgment in the practice of veterinary medicine;
- (f) has demonstrated that he or she is incapable of practising or unfit to practise veterinary medicine;
- (g) is suffering from an ailment that might, if allowed to continue, constitute a danger to the public;

it shall deal with the member in accordance with this Act.

Orders of inquiry panel

41(1) If the inquiry panel makes any of the findings described in section 40, it may make any one or more of the following orders:

- (a) reprimand the member;
- (b) suspend the member's certificate of registration or licence, or both, for such period of time as the inquiry panel determines is appropriate;
- (c) suspend the member's certificate of registration or licence, or both, until the member has completed a specified course of studies or obtained supervised clinical experience to the satisfaction of any person or committee that the inquiry panel may determine;
- (d) suspend the member's certificate of registration or licence, or both, until the member has obtained treatment or counselling and has demonstrated that a disability, addiction or problem can be or has been overcome to the satisfaction of any person or committee that the inquiry panel may determine;
- (e) impose conditions on the member's entitlement to practise veterinary medicine, including conditions that the member**
 - (i) limit his or her practice,
 - (ii) practise under supervision,
 - (iii) not engage in sole practice,
 - (iv) permit periodic inspections of the member's practice,
 - (v) permit periodic audits of records,
 - (vi) report on specific matters to any person or committee that the inquiry panel may determine,
 - (vii) complete a particular course of studies or obtain supervised practical clinical experience to the satisfaction of any person or committee that the inquiry panel may determine, or
 - (viii) obtain treatment for a disability or addiction or undertake counselling until such time as the person can demonstrate that a disability, addiction or problem can be or has been overcome to the satisfaction of any person or committee that the inquiry panel may determine;

and may order the member to pay any cost arising from any such conditions;

- (f) direct the member to waive money owed or refund money paid to him or her that, in the opinion of the inquiry panel, was unjustified for any reason;
- (g) cancel one or both of the member's certificate of registration or licence.

Cancellation or suspension of registration or licence

41(2) If the certificate of registration or licence of a member is suspended or cancelled, the member shall not practice veterinary medicine during the period of the suspension or cancellation.

Formal cautions brought to inquiry panel's attention

41(3) In order to assist the inquiry panel in determining an appropriate order, the panel may be advised of any formal cautions previously issued to the member under clause 23(1)(c) and the circumstances under which they were issued.

Costs and fines

42(1) The inquiry panel may, in addition to or instead of dealing with the conduct of an investigated member in accordance with section 41, order that the investigated member pay to the association, within the time set by the order,

- (a) all or part of the costs of the investigation and hearing;
- (b) a fine not exceeding \$10,000.;
- (c) both the costs under clause (a) and the fine under clause (b).

Nature of costs

42(2) The costs referred to in subsection (1) may include, but are not limited to,

- (a) all disbursements incurred by the association, including
 - (i) fees and expenses for experts, investigators and auditors whose reports or attendances were reasonably necessary for the investigation or hearing,
 - (ii) travel costs and reasonable expenses of any witnesses required to appear at the hearing,
 - (iii) fees for retaining a reporter and preparing transcripts of the proceedings,
 - (iv) costs of service of documents, long distance telephone and facsimile charges, courier delivery charges and similar miscellaneous expenses,
- (b) payments made to members of the peer review committee or investigators; and
- (c) costs incurred by the association in providing counsel.

Failure to pay costs and fines by time ordered

42(3) If the member ordered to pay a fine, costs or both under subsection (1) fails to pay within the time ordered, the council may suspend the member's certificate of registration or licence until the member has paid the fine or costs.

Filing of order to pay costs

42(4) The association may file an order made under subsection (1) in the Court of Queen's Bench and, on the order being filed, it may be enforced in the same manner as a judgment of the court.

Written decision and formal order

43(1) Following completion of the hearing, the inquiry panel shall give its decision and the reasons for it in writing, and shall also make a formal order embodying the decision.

Decision and order forwarded to registrar

43(2) The inquiry panel shall forward to the registrar

- (a) the decision and order given under subsection (1); and
- (b) any record of the proceedings and all exhibits and documents.

Service of decision and order

43(3) The registrar shall, on receiving the decision and order, serve a copy of the decision and order on the investigated member and the complainant.

Publication of decision

44 Despite the fact that any proceeding or part of a proceeding before an inquiry panel may have been held in private, the association may, after the decision and any order has been served on the investigated member, publish the circumstances relevant to the findings and any order of the panel. If the panel makes an order against the member under section 41 or 42, the association may also publish the member's name.

APPEAL TO COURT OF APPEAL

Appeal to Court of Appeal

[45\(1\)](#) An investigated member may appeal to the Court of Appeal any finding or order made by the inquiry panel under sections 40, 41 or 42.

Commencement of appeal

[45\(2\)](#) An appeal shall be commenced

- (a) by filing a notice of appeal with the Court of Appeal; and
- (b) by serving a copy of the notice of appeal on the association;

within 30 days after the date on which the decision of the inquiry panel is served on the member.

Appeal on the record

[45\(3\)](#) An appeal to the Court of Appeal must be founded on the record of the hearing before the inquiry panel and the decision of the panel.

Powers of Court on appeal

[46](#) The Court of Appeal on hearing the appeal may

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

Stay pending appeal

[47](#) The decision of the inquiry panel remains in effect pending an appeal to the Court of Appeal unless the Court, on application, stays the decision and any order of the panel pending the appeal.

REINSTATEMENT

Reinstatement

[48](#) The council may, on application by a person whose certificate of registration or licence has been cancelled, direct the registrar to reinstate the person's name in the register subject to such conditions as the council may prescribe, and may order the person to pay any costs arising from the imposition of such conditions.

PART 6

GENERAL PROVISIONS

INSPECTORS

Appointment of inspector

[49\(1\)](#) The association may appoint one or more inspectors for the purposes of this Act and the by-laws.

Inspection of a veterinary practice

[49\(2\)](#) An inspector may review the operation of a veterinary practice and shall report his or her findings to the registrar on the conclusion of each inspection.

Entry of premises and inspection of records

[50\(1\)](#) For the purpose of enforcing and administering this Act, an inspector may at any reasonable time, and when requested, upon presentation of an identification card issued by the association,

- (a) without a warrant, enter the office of a member and make any inspections that are reasonably required to determine compliance with this Act;
- (b) require the production by the member of any record that the inspector reasonably considers necessary for the purpose of enforcing this Act;
- (c) inspect and, upon giving a receipt, remove records or things relevant to the inspection for the purpose of making copies or extracts; and
- (d) remove substances and things for examination or test purposes upon giving a receipt.

Admissibility of copies

[50\(2\)](#) A copy of a record made under clause (1)(c) and certified to be a true copy by the inspector is, in the absence of evidence to the contrary, admissible in evidence in any proceeding or prosecution as proof of the original record and its contents.

Entry with order

[50\(3\)](#) When a justice is satisfied by information under oath that there are reasonable grounds for believing that it is necessary for an inspector to enter a building, vehicle or other place for the enforcement of this Act and

(a) a reasonable, unsuccessful effort to effect entry without the use of force has been made; or

(b) there are reasonable grounds for believing that entry would be denied without a warrant; the justice may at any time, and if necessary upon application without notice, issue an order authorizing the inspector and such other persons as may be named in the order, with such peace officers as are required to assist, to enter the building or other place and to take such action as an inspector may take under subsection (1).

Obstruction of inspector

[50\(4\)](#) No person shall obstruct an inspector or withhold from an inspector or conceal or destroy any records, documents, substances or things relevant to an audit.

SERVICE OF DOCUMENTS

Service of documents

[51\(1\)](#) A notice, order or other document under this Act is sufficiently given or served if it is

(a) delivered personally; or

(b) sent by registered mail, or by another service that provides the sender with proof of delivery, to the intended recipient at that person's last address appearing in the records of the association.

Deemed receipt

[51\(2\)](#) A notice, order or other document sent by registered mail is deemed to be given or served five days after the day it was sent.

OFFENCES

Offence

[52\(1\)](#) A person who contravenes this Act is guilty of an offence and is liable on summary conviction,

(a) for a first offence, to a fine of not more than \$5,000.; and

(b) for a second or subsequent offence, to a fine of not more than \$30,000.

Fraudulent representation on application for registration

[52\(2\)](#) A person who obtains, or attempts to obtain, registration as a member under this Act by making a false or fraudulent representation or declaration, either orally or in writing, and any person who knowingly assists in making such a representation or declaration, is guilty of an offence and is liable on summary conviction

(a) for a first offence, to a fine of not more than \$5,000.; and

(b) for a second or subsequent offence, to a fine of not more than \$30,000.

Limitation on prosecution

[52\(3\)](#) A prosecution under this section may be commenced within two years after the commission of the alleged offence, but not afterwards.

Prosecution of offence

[52\(4\)](#) Any person may be a prosecutor or complainant in the prosecution of an offence under this Act, and the court hearing the prosecution may order that all or any part of a fine recovered be paid to the prosecutor towards the costs of the prosecution.

Stay of proceedings

[52\(5\)](#) When the association is the prosecutor of an offence under this Act, it may apply for a stay of proceedings in the prosecution, and the court shall grant the stay.

PROTECTION FROM LIABILITY

Protection from liability

[53](#) No action lies against the association, the council, the registrar, a person conducting an investigation, an inspector, a member of a committee or board established under this Act or the by-laws, or any employee, officer or person acting on the instructions of any of them for anything done by the person in good faith in the performance or intended exercise of any power under this Act or the by-laws or for any neglect or default in the performance or exercise in good faith of such a duty or power.

LIMITATION PERIOD FOR MEMBERS

Limitation period for members

[54](#) No member is liable in any action for negligence or malpractice by reason of professional services requested or rendered, unless the action is commenced within two years from the date when, in the matter complained of, those professional services terminated.

INJUNCTION

Injunction

[55](#) The court, on application by the association, may grant an injunction enjoining any person from doing any act that contravenes Part 2 notwithstanding any penalty that may be provided by this Act in respect of that contravention.

CONFIDENTIALITY OF INFORMATION

Confidentiality of information

[56](#) Every person employed, appointed or retained for the purpose of administering this Act, and every member of the council or a committee of the council, shall preserve secrecy about all information that comes to his or her knowledge in the course of his or her duties, and shall not communicate any information to any other person, except

- (a) to the extent the information is available to the public under this Act;
- (b) when required for the administration of this Act, including, but not limited to, the registration of members, complaints about members, allegations of members' incapacity, unfitness, incompetence or acts of professional misconduct, or the governing of the profession;
- (c) to a body that governs the practice of another profession pursuant to an Act of the Legislature, to the extent the information is required in order for that body to carry out its mandate under the Act;
- (d) to a body that governs the practice of veterinary medicine in a jurisdiction other than Manitoba; or
- (e) to a law enforcement authority respecting possible criminal activity on the part of a member.

PART 7

TRANSITIONAL, REPEAL AND COMING INTO FORCE

Transitional: definition of "former Act"

[57\(1\)](#) *In this section and in sections 58 to 60, "former Act" means The Veterinary Medical Act, R.S.M. 1987, c. V30.*

Registration continued

[57\(2\)](#) *An individual who is a member of the association under the former Act on the day this Act comes into force is deemed to be registered as a member under this Act.*

Annual licence continued

57(3) *An annual licence issued under the former Act that is valid on the day this Act comes into force is deemed to be an annual licence issued under this Act.*

Application for registration continued

57(4) *An application for registration made under the former Act but on which a decision has not been made under section 12 of the former Act before the coming into force of this Act shall be dealt with under this Act.*

Council continued

58 *The members of the council under the former Act are deemed to be members of the council under this Act, elected or appointed for the same period and holding the same offices.*

Complaints under former Act: inquiry commenced

59(1) *If a complaint was made under the former Act in respect of which an inquiry was commenced under subsection 14(3) of that Act before the coming into force of this Act, the inquiry and other proceedings relating to the complaint shall be concluded under the former Act.*

Complaints under former Act: no inquiry commenced

59(2) *If a complaint was made under the former Act in respect of which no inquiry was commenced under subsection 14(3) of that Act before the coming into force of this Act, the complaint shall be dealt with under this Act as if the complaint had been made under this Act.*

Complaints re past conduct

59(3) *A complaint made after this Act comes into force that relates to conduct that occurred in whole or part before this Act comes into force shall be dealt with under this Act.*

Orders under former Act continued

60 *If an order made under subsection 14(7) of the former Act is in effect on the day this Act comes into force, it continues in effect as though it was made under Part 5 of this Act.*

Repeal

61 *The Veterinary Medical Act, R.S.M. 1987, c. V30, is repealed.*

C.C.S.M. reference

62 *This Act may be referred to as chapter V30 of the *Continuing Consolidation of the Statutes of Manitoba*.*

Coming into force

63 *This Act comes into force on a day fixed by proclamation.*

NOTE: S.M. 1999, c. 32 was proclaimed in force December 15, 1999.