

SNL2004 CHAPTER V-4.1
VETERINARY MEDICAL ACT, 2004

Amended:

CHAPTER V-4.1

AN ACT TO REVISE THE LAW ABOUT VETERINARY MEDICINE

(Assented to December 16, 2004)

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title

1. This Act may be cited as the *Veterinary Medical Act, 2004* .

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Definitions

2. In this Act

- (a) "animal" means a member of the animal kingdom, other than a human being;
- (b) "association" means the Newfoundland and Labrador Veterinary Medical Association continued under section 47;
- (c) "board" means the governing board of the college referred to in section 5;
- (d) "by-laws" means the by-laws of the college made under this Act or the *Corporations Act* ;
- (e) "college" means the Newfoundland and Labrador College of Veterinarians continued under section 5;
- (f) "licence" means a licence issued under section 20, 21, 23 or 25;
- (g) "member" means a member in good standing of the college;
- (h) "minister" means the minister appointed under the *Executive Council Act* to administer this Act;
- (i) "veterinary clinic" means a place from which a person practises veterinary medicine; and
- (j) "veterinary medicine" means veterinary medicine, surgery, pathology and dentistry and includes
 - (i) the diagnosing, prescribing, treating, manipulating and operating for the prevention, alleviation or correction of a disease, injury, pain or other similar condition in or of an animal,
 - (ii) the giving of advice in respect of anything mentioned in this paragraph with a view to obtaining a fee or other remuneration, and
 - (iii) the performance of procedures and use of equipment as may be prescribed in regulations made under section 48.

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Exclusions

3. Notwithstanding paragraph 2(j) or section 24 or 30, a person not authorized under this Act may carry out the following activities:

- (a) the administration of first aid or temporary assistance to an animal in an emergency without expectation of remuneration;
- (b) the treatment of an animal by its owner, by a member of the owner's household, or by his or her agent who is regularly employed in agricultural work in accordance with regulations made by the board under section 48;

- (c) the performance of procedures on an animal under the supervision, and at the direction, of a person licensed under section 20, 21 or 23 in accordance with regulations made by the board under section 48;
- (d) the use of an animal in research using acceptable veterinary procedures where the use of the animal has been approved by an animal care committee acting in accordance with the guidelines of the Canadian Council on Animal Care; and
- (e) the performance of procedures on an animal by an employee of the Crown in a classification designated by the board in accordance with rules established by the board.

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Application to Crown

- 4. This Act binds the Crown.

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PART I COLLEGE

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College

5. The Newfoundland and Labrador Veterinary Licensing Board is continued under the name Newfoundland and Labrador College of Veterinarians as a corporation without share capital for the purposes of Part XXI of the *Corporations Act* .

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Governing board

- 6. (1) There shall be a board responsible for governing the college, which consists of
 - (a) 4 directors elected from and by the members in accordance with section 10;
 - (b) one director appointed under section 7 who is not a veterinarian; and
 - (c) the registrar elected in accordance with section 10, who shall not vote on a matter before the board.
- (2) Elected directors shall serve without payment for their services, but their travel and other expenses associated with their duties as directors may be paid by the college, in accordance with the by-laws.
- (3) The college may pay the registrar for performing his or her duties under this Act, in accordance with the by-laws.
- (4) The board governs the college and may exercise the powers of the college in the name and on behalf of the college.
- (5) The board shall elect a chairperson who chairs all meetings of the college and the board.

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Appointed director

- 7. (1) The minister shall appoint as a director one person who is suitable to represent the point of view of persons in the province who use or may need to use the services of members.
- (2) A person appointed under subsection (1) holds office for a term of 2 years and is eligible to be re-appointed.
- (3) Where a person appointed under subsection (1) holds office for a period of 4 consecutive years the person is not eligible for appointment as a director until the expiration of 12 months from the end of the year in which he or she last held office as a director.
- (4) Where the term of office of an appointed director expires, he or she continues to be a director until re-appointed or replaced.

(5) The college shall pay the expenses of a director appointed under this section in accordance with guidelines established by the Lieutenant-Governor in Council.

(6) A person appointed under subsection (1) may be removed from office by the minister before the expiration of his or her term of office and no compensation shall be paid to him or her other than an amount owing under subsection (5).

(7) A person appointed under subsection (1) may resign the office of director by written notice to the minister.

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Board meetings

8. (1) A quorum of the board is 3 directors, one of whom shall be the appointed director.

(2) Except where prohibited in the by-laws, a director may, where all the directors consent, participate in a meeting of the board by means of the telephone or other telecommunication device that permits all persons participating in the meeting to communicate with each other.

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Membership

9. (1) All persons who hold a veterinary licence issued under section 20, 21 or 23 are members of the college.

(2) The board may admit persons to other classes of membership in accordance with the by-laws.

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Election

10. (1) An election shall be held before the end of a term of a director or the registrar to fill the upcoming vacancy.

(2) Every member in good standing on the date that nominations close for an election may vote at an election.

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Voting by mail or electronically

11. (1) Members of the college may vote by mail or by electronic means in an election where permitted by the by-laws.

(2) Where the by-laws permit voting by mail or by electronic means, the board shall in the by-laws make the rules that are necessary to carry out the election.

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Eligibility for election

12. A person who is a member in good standing on the day on which the election takes place is eligible for election as a director or the registrar.

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Term of office

13. (1) An elected director holds office for a term of 3 years and is eligible to be re-elected.

(2) Where a director holds office for a period of 9 consecutive years, the director shall not be eligible for election as a director until the expiration of 12 months from the end of the year in which he or she last held office as a director.

(3) Where the term of office of a director expires, he or she continues to be a director until re-elected or replaced.

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Registrar

- 14.** (1) The registrar holds office for a term of 3 years and is eligible to be re-elected.
- (2) The registrar is the secretary of the college and shall
- (a) keep a record of the proceedings of the college in the form required by the by-laws; and
 - (b) prepare and maintain a register containing the names of all members of the college, all persons holding licences issued under this Act and other information that may be required by the by-laws.
- (3) The registrar shall make the register of the college available for inspection by the public on reasonable notice and at reasonable hours.

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Resignation

- 15.** An elected director or the registrar may resign his or her office by written notice to the board.

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By-laws

- 16.** (1) The board may make by-laws that are not inconsistent with this Act about the administration of the college, the board and this Act and in particular about
- (a) the holding and procedure of its meetings;
 - (b) the appointment of committees and the duties and responsibilities of those committees;
 - (c) conflict of interest rules for directors;
 - (d) the payment of travel and other expenses of elected members of the board;
 - (e) payment of the registrar;
 - (f) limiting the participation of members at a meeting of the board by telephone or other telecommunications device under section 8;
 - (g) other classes of membership and the rules of eligibility for those classes;
 - (h) providing for voting by members at an election or meeting of the college by mail or electronic means;
 - (i) recording the proceedings of the college;
 - (j) the contents of the register required under section 14;
 - (k) setting fees for veterinary and clinic licences and the terms and conditions of licences;
 - (l) standards of practice for veterinarians and veterinary clinics;
 - (m) continuing education requirements for members; and
 - (n) a code of ethics which may include a definition of "professional misconduct", "professional incompetence" and "conduct unbecoming" for the purpose of section 32.
- (2) A by-law, and an amendment or repeal of a by-law may be approved at a meeting of the college, provided that 30 days notice, in writing, of the proposed by-law, amendment or repeal is sent to each member.
- (3) The college shall have its by-laws available for inspection by the public on reasonable notice and at reasonable hours.

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Meeting of the college

- 17.** (1) The college shall hold an annual general meeting at which an auditor shall be appointed to audit the accounts of the college and report on the financial statements prepared by the board.

- (2) Ten members are a quorum at a meeting of the college.
- (3) Where a quorum exists, a majority of that number is sufficient to make a decision of the college, and in the event of a tie the chairperson of the meeting shall cast the deciding vote.
- (4) The college may in its by-laws provide for voting at a meeting of the college by mail or electronic means.
- (5) The annual general meeting may be held at the same time as an election under section 10.

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Annual report

- 18.** (1) The board shall prepare and submit to the minister before July 1 in a year,
- (a) a report on the activities of the board; and
 - (b) the board's audited financial statements.
- (2) Where the board fails to comply with subsection (1), the board is guilty of an offence and on summary conviction may be fined \$1,000.

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PART II LICENSING

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Application for licence

- 19.** (1) A person may apply for a veterinary licence where he or she
- (a) has received a degree in veterinary medicine from an institution recognized by the college;
 - (b) has passed an examination that meets the standards of the National Examining Board of the Canadian Veterinary Medical Association; and
 - (c) meets the other requirements that may be set by the board in the regulations.
- (2) An application shall be directed to the registrar who may issue a veterinary licence in accordance with subsection 20(1).
- (3) Where an application is referred by the registrar, the board may direct that a veterinary licence be granted immediately or require that the applicant undergo further examination and appear before the board.
- (4) Notwithstanding subsection (1), a person licensed to practise veterinary medicine in another Canadian jurisdiction may apply for a veterinary licence where he or she meets the requirements set by the board in the regulations.

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Licence

- 20.** (1) The registrar shall issue a veterinary licence to an applicant in accordance with section 19 where the applicant
- (a) pays the registration fee set by the board;
 - (b) proves that he or she has paid the annual fee set by the association;
 - (c) proves that he or she has obtained professional liability insurance coverage in a form and amount satisfactory to the board;
 - (d) establishes that he or she is not suspended or restricted with respect to the practice of veterinary medicine by a college or equivalent body governing the practice of veterinary medicine in a jurisdiction outside the province; and
 - (e) pays outstanding fines, penalties or fees, which are owed to the college.
- (2) A licence issued under this Act shall, unless it is cancelled or suspended, expire at midnight on December 31 of the calendar year for which it was issued.

(3) Notwithstanding paragraph (1)(d), where an applicant is under restrictions with respect to the practice of veterinary medicine in another jurisdiction, the board may direct the registrar to issue and the registrar may issue, a licence with the same or similar restrictions.

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Conditional temporary licence

21. (1) The registrar may issue a conditional temporary veterinary licence to a person, upon receipt of the fee set in the by-laws, where he or she is satisfied that the person is the holder of the qualifications set out in the by-laws.

(2) A conditional temporary licence issued under this section shall be subject to the terms, conditions and limitations that may be set out in the licence and in the by-laws.

(3) The holder of a conditional temporary licence under this section has the right to engage in the practice of veterinary medicine only under the terms, conditions and limitations set out in the licence and the by-laws.

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Refusal of licence

22. (1) Where the registrar refuses to issue a licence to a person, that person may appeal to the board who may confirm the decision or direct the registrar to vary or reverse it.

(2) The board shall decide the appeal under subsection (1) without the registrar being present.

(3) A person aggrieved by a decision of the board under this section may, within 30 days after receiving notice of the decision, appeal the decision or order to the Trial Division by filing a notice of appeal with the Registrar of the Supreme Court.

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Annual renewal

23. (1) A person may renew a licence issued under section 20 of this Act by applying to the registrar and paying the fees set in the by-laws.

(2) The board may, as a condition of licence renewal, require proof of active practice in accordance with standards that may be set in the by-laws.

(3) The registrar shall issue a renewal licence to a person who has applied and paid the fees and who is otherwise in compliance with the Act.

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Operation of veterinary clinics

24. (1) A person shall not carry on the practice of veterinary medicine from other than a veterinary clinic.

(2) A person shall not

(a) operate a veterinary clinic unless

(i) it is licensed under this Act,

(ii) the practice of veterinary medicine from the clinic is directed and controlled by a veterinarian, and

(iii) the clinic is operated in accordance with the terms and conditions of its licence, this Act and the regulations;

(b) employ a person to practise veterinary medicine who is not a veterinarian or otherwise authorized under this Act to practise veterinary medicine; and

(c) display on or in connection with premises owned or leased by that person, corporation or business, the words "veterinarian", "veterinary", "animal medicine" or other words of similar meaning, unless those premises contain a veterinary clinic licensed under this Act.

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Licensing of veterinary clinics

25. (1) A person may apply to the registrar for a licence to operate a veterinary clinic.
- (2) The board may in the by-laws establish different classes of clinic licences and set different requirements and fees for each class of licence.
- (3) The registrar shall register a veterinary clinic and annually issue a veterinary clinic licence to a clinic which complies with this Act, the regulations and requirements which may be set in the by-laws.
- (4) The board shall set the fee for registration and an annual licence in the by-laws.
- (5) A veterinary clinic shall display in a conspicuous place the licence issued under this section and a notice in a form prescribed by the college providing the name, address and phone number of a representative of the college for the purpose of making an inquiry or a complaint.
- (6) An application for a licence under this section shall name a person who holds a veterinary licence who will be the veterinarian in charge of the clinic.

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Control of veterinary clinics

26. (1) A person who does not hold a veterinary licence issued under section 20 shall not direct or control the practice of veterinary medicine in a veterinary clinic.
- (2) The veterinarian in charge of a veterinary clinic operating under this Act shall ensure that the veterinary clinic is operated in compliance with this Act and failure to do so constitutes professional misconduct.
- (3) Notwithstanding subsection (2), where a veterinarian in charge of a veterinary clinic notifies the registrar of an issue respecting the compliance of the clinic with this Act which is beyond the control of the veterinarian, the board may decide not to proceed under Part III with respect to the conduct of the veterinarian.

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Inspection

27. The registrar, or a person authorized by the registrar, may inspect, during normal business hours, a veterinary clinic or proposed veterinary clinic to determine whether the clinic meets the standards prescribed in or under this Act.

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Standards of practice

28. (1) The board may in the by-laws prescribe standards of practice for veterinarians and veterinary clinics.
- (2) Notwithstanding subsection (1), the college may adopt the code of ethics set by the association from time to time as, or in addition to, the standards of practice.

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Continuing education

29. The board may in the by-laws require members to participate in a continuing education program as a condition of their membership.

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Prohibitions

30. (1) A person shall not engage in or practise veterinary medicine unless he or she holds a veterinary licence.

(2) A person shall not engage in or practise veterinary medicine except in accordance with the terms and conditions of the licence issued under this Act.

(3) A person who does not hold a licence to practise veterinary medicine shall not use the title "Veterinarian" or "Veterinary Surgeon" or other words of similar meaning or hold himself or herself out or conduct himself or herself in a manner that may reasonably lead the public to infer that he or she is entitled to practise veterinary medicine.

(4) A person shall not hold out that he or she is a specialist in a particular field of veterinary medicine unless that person is approved as a specialist in that field by the college in accordance with criteria established by the board.

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Veterinary technologist

31. (1) The board may, with the approval of the minister, make regulations respecting veterinary technologists, including

- (a) defining the term veterinary technologist and classifying veterinary technologists;
- (b) prescribing the qualifications for each class of veterinary technologists;
- (c) providing for the registration or certification of persons in each class of veterinary technologists;
- (d) prescribing the services that may be provided by each class of veterinary technologists;
- (e) establishing standards of practice for each class of veterinary technologists;
- (f) providing a procedure to deal with complaints about the conduct of and for disciplining veterinary technologists; and
- (g) other matters with respect to veterinary technologists that the board considers necessary.

(2) A person who is not registered or certified by the board as a veterinary technologist shall not use the title "veterinary technologist" or "animal health technologist" or other words of similar meaning or otherwise infer that he or she is entitled to use these titles.

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PART III DISCIPLINE

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Definitions

32. In this Part

- (a) "allegation" means a written document alleging that a respondent has engaged in conduct deserving of sanction;
- (b) "chairperson of the board" includes a person designated by the chairperson to act in his or her place;
- (c) "complainant" means a person making an allegation described in section 34;
- (d) "conduct deserving of sanction" includes
 - (i) professional misconduct,
 - (ii) professional incompetence,
 - (iii) conduct unbecoming a member of the college,
 - (iv) acting in breach of this Act, the regulations or the code of ethics made under section 16, and
 - (v) acting in breach of the terms and conditions of a licence issued under this Act; and
- (e) "respondent" means a member of the college, a former member of the college or the holder of a licence to operate a veterinary clinic against whom an allegation is made.

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Disciplinary panel

33. (1) The disciplinary panel shall consist of at least 4 members of the college who shall be appointed by the board and at least 2 persons who are not members of the college who shall be appointed by the minister to represent the public interest.

(2) The board shall appoint a chairperson and vice-chairperson from the members of the college appointed under subsection (1).

(3) Where a member of the college is appointed under subsection (1) he or she shall serve on the disciplinary panel unless the board determines that he or she is unable to serve for reasons beyond his or her control.

(4) Of the persons first appointed to the disciplinary panel, one-half of the persons appointed by the board and one-half of the persons appointed by the minister shall be appointed for a term of 2 years and the remainder shall be appointed for a term of 3 years, and all subsequent appointments shall be for a term of 3 years.

(5) Notwithstanding the expiry of his or her term, a member of the disciplinary panel continues to be a member until he or she is re-appointed or his or her replacement is appointed.

(6) A person appointed to the disciplinary panel may be re-appointed.

(7) The board and an adjudication tribunal appointed under section 37 may summon witnesses and require those witnesses to give evidence orally or in writing upon oath or affirmation, and produce the documents and things that may be considered necessary to the full investigation and hearing of allegations and complaints and shall have the powers, privileges and immunities that are conferred on commissioners appointed under the *Public Inquiries Act*.

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Allegation

34. (1) An allegation shall be in writing and signed by the complainant or his or her solicitor, and filed with the registrar.

(2) The chairperson of the board may on his or her own motion make an allegation and file it, and the allegation shall have the same effect as an allegation referred to in subsection (1).

(3) Where the registrar has been informed that a respondent has been convicted of an offence under the provisions of the *Criminal Code* or a similar penal statute of another country or has been suspended by a governing body of a college in another province or territory of Canada or another territory or country for reason of professional misconduct, professional incompetence, or conduct unbecoming a veterinarian, the information shall be dealt with by the registrar as an allegation.

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Effect of filing allegation

35. (1) Where it appears to the registrar that the allegation may be resolved satisfactorily and where the complainant and the respondent consent, the registrar may attempt to resolve the matter.

(2) Where the allegation is not satisfactorily resolved by the registrar under subsection (1), the registrar shall refer the allegation to the board.

(3) The registrar shall inform a complainant and a respondent of the referral of an allegation to the board.

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Complaints authorization

36. (1) After an allegation has been referred to the board, the board may exercise one or more of the following powers:

(a) refer the allegation back to the registrar for further investigation or alternate dispute resolution in accordance with the regulations;

- (b) conduct an investigation itself or appoint a person to conduct an investigation on its behalf; and
- (c) require the respondent to appear before it.
- (2) Where the board is of the opinion that there are no reasonable grounds to believe the respondent has engaged in conduct deserving of sanction the board shall dismiss the allegation and give notice in writing of the dismissal to the complainant.
- (3) Where the board is of the opinion that there are reasonable grounds to believe that a respondent has engaged in conduct deserving of sanction, the allegation shall be considered as constituting a complaint, and the board may
 - (a) counsel or caution the respondent; or
 - (b) instruct the registrar to file the complaint against the respondent and refer it to the disciplinary panel; and
 - (c) at any time before a final determination by the adjudication panel,
 - (i) suspend or restrict the respondent's licence, or
 - (ii) direct the registrar to conduct an investigation of the respondent's practice or clinic.
- (4) The registrar, a member of the board or a person appointed to conduct an investigation under paragraph (1)(b) or subparagraph (3)(c)(ii) may, for the purpose of that investigation, require
 - (a) the respondent to
 - (i) undergo practical and other examinations he or she considers necessary, and
 - (ii) permit the registrar, a member of the board or another person appointed by the board to inspect the records of the respondent and other documents relating to the subject matter of the investigation; and
 - (b) another person to permit the registrar, a member of the board or another person appointed by the board to inspect records and other documents relating to the subject matter of the investigation held by that person.
- (5) Where the registrar, the board or another person requests that a person provide information under subsection (4), that information shall be provided, as requested, within 7 days of receipt of the request or a different period as specified in the request.
- (6) An action for damages does not lie against a person to whom a request is made solely because he or she provides information requested of him or her under subsection (4).
- (7) A complainant whose allegation is dismissed by the board under subsection (2) may appeal the dismissal to the Trial Division within 30 days after receiving notice of the dismissal by filing a notice of appeal with the Registrar of the Supreme Court.

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Adjudication tribunal

- 37.** (1) For the purpose of dealing with a complaint referred to the disciplinary panel, the chairperson of the disciplinary panel shall appoint from the panel an adjudication tribunal consisting of 3 persons, of whom 2 shall be members of the college and one shall be a member of the panel appointed to represent the public interest.
- (2) The chairperson of the disciplinary panel shall appoint one of the members of the college on an adjudication tribunal to be the chairperson of that tribunal.

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Hearing

- 38.** (1) Where a complaint has been referred under paragraph 36(3)(b), an adjudication tribunal shall hear the complaint.
- (2) The parties to a hearing are the college and the respondent and a party may be represented by counsel at a hearing.
- (3) A hearing shall be conducted in public but an adjudication tribunal may exclude the public from a hearing, or from part of it, where it considers the desirability of protecting a party to the complaint

or another person against the consequences of possible disclosure of personal matters outweighs the desirability of holding the hearing in public.

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Guilty plea

39. (1) Where a respondent pleads guilty to one or more of the charges set out in a complaint, the adjudication tribunal shall, without calling evidence or hearing witnesses, unless the tribunal believes it is appropriate to do so, hear submissions from the parties.

(2) Where a respondent pleads guilty and following submissions under subsection (1), the adjudication tribunal may

- (a) reprimand the respondent;
- (b) order that the respondent's licence be suspended for a fixed period that it considers appropriate, until conditions which it may impose are fulfilled, or until further order of the adjudication tribunal;
- (c) allow or direct the respondent to surrender his or her licence to the board upon those conditions that may be considered appropriate;
- (d) impose a fine to be paid to the college, not to exceed \$10,000;
- (e) order that the respondent pay the costs or a part of the costs incurred by the college in the investigation or hearing of the complaint;
- (f) order that the registrar publish a summary of the decision including the information set out in subsection 41(4) and other information that the tribunal may specify; and
- (g) order that the respondent comply with one or more of the following:
 - (i) make restitution to the complainant or other person affected by the conduct of the respondent,
 - (ii) obtain medical treatment,
 - (iii) obtain counselling,
 - (iv) obtain substance abuse counselling or treatment,
 - (v) engage in continuing education programs,
 - (vi) report on his or her compliance with an order made under this section and authorize others involved with his or her treatment or supervision to report on it,
 - (vii) notify his or her employers of the respondent's disciplinary status,
 - (viii) give notice of an order made under this section to a person affected by the conduct giving rise to the order,
 - (ix) restrict his or her professional practice or clinic operation or continue his or her practice or clinic operation under specified conditions, or
 - (x) impose other requirements that are just and reasonable in the circumstances.

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Powers of adjudication tribunal

40. (1) Upon the hearing of a complaint, an adjudication tribunal shall decide whether or not a respondent is guilty of conduct deserving of sanction.

(2) Where an adjudication tribunal decides that a respondent is not guilty, it shall dismiss the complaint and may, where it believes that the submission of the complainant to the discipline panel was unreasonable,

- (a) order that those costs that the tribunal considers appropriate be paid by the college to the respondent; and
 - (b) make another order that it considers appropriate.
- (3) Where an adjudication tribunal decides that a respondent is guilty, it may
- (a) reprimand the respondent;

- (b) order that the respondent's licence be suspended for a fixed period that it considers appropriate, until conditions which it may impose are fulfilled, or until further order of the adjudication tribunal;
- (c) allow or direct the respondent to surrender his or her licence to the board upon those conditions that may be considered appropriate;
- (d) impose a fine to be paid to the college, not to exceed \$10,000;
- (e) order that the respondent pay the costs or a part of the costs incurred by the college in the investigation or hearing of the complaint;
- (f) order that the registrar publish a summary of the decision including the information set out in subsection 41(4) and other information that the tribunal may specify;
- (g) make an order specified in paragraph 39(2)(g); and
- (h) make another order that it may consider appropriate.

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Filing of decisions and publication

41. (1) An adjudication tribunal shall file a decision or order made under subsection 39(2) or 40(3) with the registrar and provide a copy to the complainant, the respondent and the respondent's employer.

(2) The registrar shall maintain a copy of a decision or order filed under subsection (1) for a minimum of 5 years after the day the decision is filed and shall, upon receiving a request to view the disciplinary records in relation to a member, permit a person to view a summary of a decision prepared in accordance with subsection (4) where that member was the respondent.

(3) The registrar shall publish a summary of a decision or order of an adjudication tribunal in a newspaper of general circulation in or nearest to the community in which the respondent practises within 14 days of the filing of the decision or order, where the decision or order

- (a) suspends the respondent;
- (b) allows or directs the respondent to surrender his or her licence;
- (c) restricts the respondent's practice;
- (d) specifies conditions for the continuing practice of the respondent; or
- (e) requires that a summary of the decision or order be published under this section.

(4) The summary of the decision published under subsection (1) shall include

- (a) the name of the respondent and the address of the clinic where he or she practises veterinary medicine;
- (b) the date, location and a brief description of the conduct of the respondent that was found to be deserving of sanction;
- (c) the name of the complainant, unless the complainant has requested that his or her name be withheld; and
- (d) the contents of the order in relation to the actions referenced in paragraphs (3)(a) to (c).

(5) Where a decision published under this section is confirmed, varied or set aside, the registrar shall within 14 days of the filing of the subsequent decision or order publish a summary of the decision or order and subsections (3) and (4) shall apply with the necessary changes.

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Failure to comply

42. (1) On application by the board to the disciplinary panel, an adjudication tribunal, whether or not it was the same tribunal that made the original decision or order, may make an order suspending the licence of a respondent where it determines that the respondent has failed to comply with a decision or an order under this Act.

(2) The parties to the application are the college and the respondent who is the subject of the application.

(3) An order of an adjudication tribunal under this section may suspend the licence of the respondent for a fixed period that the adjudication tribunal may consider appropriate, or until conditions which it may impose are fulfilled, or until further order of the adjudication tribunal.

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Supplementary hearing

43. (1) Where a decision or order of the adjudication tribunal

- (a) suspends the respondent;
- (b) allows or directs the respondent to surrender his or her licence;
- (c) restricts the respondent's practice; or
- (d) specifies conditions for the continuing practice of the respondent,

and where the respondent alleges that new evidence has become available or a material change in circumstances has occurred since the making of the decision or order, the respondent may apply to the board for a supplementary hearing to discharge or vary the decision or order based on the new evidence or material change in circumstances.

(2) An application under subsection (1) shall be made not more than 90 days after the new evidence becomes available or the material change in circumstances has occurred.

(3) Where an application is made to the board under subsection (1), and the board is of the opinion that new evidence has become available or that a material change in circumstances has occurred, as alleged by a respondent, the matter shall be referred to an adjudication tribunal as if it were a matter referred under paragraph 36(3)(b) and sections 38 to 42 apply, with the necessary changes, to the referred matter.

(4) The parties to a supplementary hearing under this section are the respondent and the college.

(5) For the purpose of this section, in addition to an order that an adjudication tribunal may make under section 40, an adjudication tribunal may

- (a) vary the original decision or order made under section 40; or
- (b) discharge the original decision or order, with or without conditions.

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Costs of college

44. (1) Where a person who was ordered to pay the costs of the college under paragraph 39(2)(e) or 40(3)(e) fails to pay in the time required, the board may suspend the licence of that person until the costs are paid.

(2) Costs ordered to be paid under paragraph 39(2)(e) or 40(3)(e) are a debt due the college and may be recovered by the college by a civil action.

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Collection of fine

45. (1) Where an order is made under section 39 or 40 imposing a fine on a respondent, the college may issue a certificate stating the amount of the fine due and remaining unpaid and the name of the person by whom it is payable, and file the certificate with the Registrar of the Supreme Court.

(2) Where a certificate is filed with the Registrar of the Supreme Court under subsection (1), it has the same effect and all proceedings may be taken on the certificate as if it were a judgment of the Trial Division for the recovery of the amount stated in the certificate against the person named in the certificate.

(3) A person named in a certificate filed under this section may, within 30 days after the certificate is filed, apply to a judge of the Trial Division for a review, on a question of law or jurisdiction, of the certificate.

(4) On an application under subsection (3), the judge may make any amendment to the certificate that is necessary to make the certificate accord with the judge's decision.

(5) There is no appeal from a decision of a judge made under this section.

(6) A certificate filed under this section may also be filed in the judgment enforcement registry on the expiration of the 30 day period referred to in subsection (3) in accordance with Part III of the *Judgment Enforcement Act* and be enforced in accordance with that Act.

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Appeal to Trial Division

46. (1) The board or the respondent may, within 30 days after receiving notice of a decision or order of an adjudication tribunal under this Act, appeal the decision or order to the Trial Division by filing a notice of appeal with the Registrar of the Supreme Court.

(2) An appeal under this section does not stay the decision or order being appealed unless the Trial Division orders otherwise.

2004 cV-4.1 s46

PART IV ASSOCIATION

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Association

47. (1) The Newfoundland and Labrador Veterinary Medical Association is continued as a corporation without share capital for the purposes of Part XXI of the *Corporations Act* .

(2) The objects of the association are

- (a) to represent the veterinary profession in the province, including advising and arbitrating about the terms of employment and working conditions of veterinarians;
- (b) to promote and advance the art, science and practice of veterinary medicine and to maintain the honour and integrity of the veterinary profession;
- (c) to preserve and improve the professional character and education of veterinarians; and
- (d) to establish and maintain standards of professional conduct, knowledge, education, skill and ethics among its members.

2004 cV-4.1 s47

PART V GENERAL

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Regulations

48. The board may make regulations, with the approval of the minister

- (a) respecting the treatment of an animal referred to in paragraph 3(b);
- (b) respecting the performance of procedures on an animal under supervision referred to in paragraph 3(c);
- (c) establishing requirements for licensing as a veterinarian and for licensing persons who are licensed to practise veterinary medicine in another Canadian jurisdiction;
- (d) establishing different classes of veterinary licence and setting the terms and conditions for each class, which may include restrictions on the practice of veterinary medicine;
- (e) establishing requirements for the holder of a licence to operate a veterinary clinic;
- (f) prescribing the procedures and use of equipment that fall within the definition of veterinary medicine in subparagraph 2(j)(iii);
- (g) establishing an alternate dispute resolution process for complaints; and
- (h) prescribing time limits for events in the disciplinary process in Part III, including time limits for
 - (i) the filing of an allegation,
 - (ii) the conduct of an investigation under section 36,
 - (iii) consideration of an allegation by the board following completion of an investigation,
 - (iv) responding to a complainant and respondent at each stage of the process,

- (v) the conduct of a practice investigation under subparagraph 36(3)(c)(ii),
- (vi) the appointment of an adjudication tribunal under section 37, and
- (vii) the conduct of a hearing and the filing of a decision or order by an adjudication tribunal following completion of the hearing.

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Offence

49. A person who contravenes this Act or the regulations commits an offence and is liable on summary conviction to a fine of not more than \$5,000.

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Liability

50. An action for damages shall not lie against the college, board, disciplinary panel, adjudication tribunal or the individual members of those bodies, the registrar, or an officer or employee of the college for

- (a) an act or failure to act, or a proceeding initiated or carried out in good faith under this Act, or carrying out their duties or obligations as an officer, employee or member under this Act; or
- (b) for a decision or order made or enforced in good faith under this Act.

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Liability of members

51. A member of the college shall not be personally liable for a debt of the college beyond the amount of the unpaid dues, fees, fines and penalties owed to the college, but all property, real and personal, of the college shall be held for the payment of the debts of the college.

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Transition

52. (1) The members of the Newfoundland and Labrador Veterinary Licensing Board are continued as elected directors of the board of the college until an election is held under this Act.

(2) An election to elect the 4 directors referred to in paragraph 5(1)(a) shall be held under section 10 within 6 months after the day this Act comes into force.

- (3) Notwithstanding section 10, of the directors first elected under this Act,
 - (a) 2 shall be elected for a term of 3 years;
 - (b) one shall be elected for a term of 2 years; and
 - (c) one shall be elected for a term of one year.

(4) Those persons holding a licence to practise issued under the *Veterinary Medical Act* are, on the coming into force of this Act, considered to hold a veterinary licence under section 19, and are eligible to apply for renewal as if the licence had been issued under this Act.

(5) The by-laws of the association in operation at the coming into force of this Act shall, to the extent that they are not inconsistent with this Act or the *Corporations Act*, be the by-laws governing the association until revoked or amended.

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RSNL1990 cA-7 Amdt.

53. Paragraph 3(d) of the *Agrologists Act* is amended by striking out the words "*Veterinary Medical Act*" and substituting the words "*Veterinary Medical Act, 2004*".

2004 cV-4.1 s53

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RSNL1990 cA-10 Amdt.

54. Paragraph 2(g) of the *Animal Protection Act* is amended by striking out the words "*Veterinary Medical Act* " and substituting the words "*Veterinary Medical Act, 2004* ".

2004 cV-4.1 s54

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SNL1994 cP-12.1 Amdt.

55. (1) Subparagraph 2(p)(iii) of the *Pharmaceutical Association Act, 1994* is amended by striking out the words "*Veterinary Medical Act* " and substituting the words "*Veterinary Medical Act, 2004* ".

(2) Paragraph 3(1)(c) of the Act is amended by striking out the words "*Veterinary Medical Act* " and substituting the words "*Veterinary Medical Act, 2004* ".

(3) Paragraph 58(2)(c) of the Act is amended by striking out the words "*Veterinary Medical Act* " and substituting the words "*Veterinary Medical Act, 2004* ".

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RSNL1990 cV-4 Rep.

56. The *Veterinary Medical Act* is repealed.

2004 cV-4.1 s56

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Commencement

57. Sections 24 to 27 of this Act come into force 6 months after this Act receives the Royal Assent. (Ss.24 to 27 in force - June 16, 2005)

2004 cV-4.1 s57

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