

Veterinary Practice Bill

EXPLANATORY MEMORANDUM

OUTLINE

The purpose of this Bill is to make provision for the registration of veterinary practitioners and to establish the Veterinary Practitioners Registration Board of Victoria.

The Board will be incorporated by the Act. It will consist of 9 members, of whom one will be a lawyer, 2 will be lay persons, and 6 will be veterinary practitioners.

The Bill will—

- (a) protect the public by providing for the registration of veterinary practitioners and the investigation into the professional conduct and fitness to practise of registered veterinary practitioners;
- (b) establish the Veterinary Practitioners Registration Board of Victoria and the Veterinary Practitioners Registration Board Fund;
- (c) regulate the conduct of veterinary practitioners and the advertising of veterinary services.

PART 1—PRELIMINARY

Clause 1 sets out the purpose of the Act.

Clause 2 is the commencement provision. Sections 1 and 2 are to come into operation on Royal Assent. The rest of the Act will come into operation on a date to be proclaimed but no later than 1 December 1998.

Clause 3 defines various terms used in the Act.

PART 2—REGISTRATION

Division 1—Procedure for Obtaining Registration

Clause 4 provides for applications to the Board for registration as a veterinary practitioner.

Clause 5 sets out the qualifications for general registration.

- Clause 6 provides for granting general registration by the Board. If specific registration does not apply, the Board must register an applicant if the applicant is qualified and the applicant has paid a fee set by the Board and the applicant has not previously been refused registration on any ground on which registration under the Act can be refused by the Board.
- Clause 7 gives the Board a capacity to grant specific registration in certain circumstances. It also gives the Board power to impose conditions, limitations or restrictions upon specific registration and to amend, vary or revoke those conditions, limitations or restrictions.
- Clause 8 allows the Board to endorse a general registration to allow the veterinary practitioner to practise as a veterinary specialist.
- Clause 9 sets out an applicant's entitlement to make submissions to the Board where the Board proposes to refuse an application for registration.
- Clause 10 requires the Board to notify an applicant for registration of its decision and to provide the applicant with certain information in relation to the decision.
- Clause 11 sets out the period of registration as 12 months after the grant or renewal of registration.
- Clause 12 provides for the renewal of registration that is not specific and the removal of a name from the register in specified circumstances.
- Clause 13 provides for the restoration of a veterinary practitioner's name to the register where, after expiry of registration, a name had been removed from the register.
- Clause 14 sets out the effect of suspension of registration—deems the suspended veterinary practitioner as not being registered during suspension.
- Clause 15 requires the Board to conduct a hearing where a veterinary practitioner's registration is obtained by fraud or misrepresentation or where the veterinary practitioner's qualifications have been withdrawn. If the Board determines there has been fraud, misrepresentation or withdrawal of qualifications it must cancel the veterinary practitioner's registration.

Division 2—The Register

- Clause 16 describes the Register of Veterinary Practitioners, the particulars which are to be included on the register and describes how a person may have access to the information contained in the register.

- Clause 17 states that the Board must provide all registered persons with a certificate upon registration and upon renewal of registration, describes the particulars which are to be included on the certificate, and requires that a veterinary practitioner whose registration is cancelled or suspended must return the certificate.
- Clause 18 states that a certificate signed by the President or any 2 members of the Board may be used as evidence of the facts included on it.
- Clause 19 requires a veterinary practitioner to notify the Board of a change of address within 14 days after that change.

PART 3—INVESTIGATIONS INTO REGISTERED VETERINARY PRACTITIONERS

Division 1—Preliminary investigations into professional conduct

- Clause 20 provides that a person may complain to the Board about a veterinary practitioner's professional conduct.
- Clause 21 states when complaints may be investigated by the Board, requires the Board to conduct a preliminary investigation, gives the Board the power to delegate its power to conduct any such investigation and provides for any person who provides information to the Board to be informed that an investigation is being conducted.
- Clause 22 requires an investigator to make recommendations to the Board at the conclusion of the preliminary investigation and requires the Board to determine whether or not it will act on those recommendations.
- Clause 23 provides that the Board may determine to conduct a formal or informal hearing into the professional conduct of a registered veterinary practitioner on its own motion without conducting a preliminary investigation.
- Clause 24 gives the Board the power to suspend the registration of a veterinary practitioner pending the conduct of a preliminary investigation or formal or informal hearing where necessary and requires that the Board ensure that the investigation or hearing into the matter is investigated as soon as possible after the suspension.

Division 2—Preliminary investigation into the health of registered veterinary practitioners

- Clause 25 provides that if the Board believes that a veterinary practitioner's capacity to practise is affected as a result of certain circumstances it may appoint one of its members to conduct a preliminary investigation into the matter.

- Clause 26 requires the Board to notify a veterinary practitioner whose health is to be investigated and describes the notice required to be given.
- Clause 27 sets out the process for obtaining and paying for a medical examination where a veterinary practitioner agrees to be medically examined as part of a preliminary investigation.
- Clause 28 requires the examining medical practitioner to give a report of the examination to the appointed member and, within 7 days after that, to the veterinary practitioner who is the subject of the report. It provides that the appointed member may decide not to give the veterinary practitioner a copy of the report in certain circumstances. It also requires the appointed member to discuss the report with the veterinary practitioner who is the subject of the report and to report to the Board on the contents of the report.
- Clause 29 describes the agreement that a veterinary practitioner may reach with the Board after the Board has considered the reports prepared by the appointed member and the examining medical practitioner.
- Clause 30 provides for the referral to a formal hearing of a veterinary practitioner not agreeing to undergo a medical examination, not attending an agreed medical examination, not reaching an agreement with the Board following the Board considering the reports prepared by the appointed member and the examining medical practitioner or not abiding by an agreement reached with the Board.
- Clause 31 states that a veterinary practitioner may request the Board to impose conditions, limitations or restrictions on his or her practice and, if there is not a agreement about a condition, limitation or restriction, the matter be referred to a preliminary investigation.
- Clause 32 provides for the Board to revoke any condition, limitation, restriction or a suspension imposed on the registration of a veterinary practitioner if the veterinary practitioner satisfies the Board that her or his ability to practise is no longer affected.
- Clause 33 states that where a matter about the physical and mental health of a veterinary practitioner has been referred to a formal hearing, the Board may, if it is of the opinion that to permit that veterinary practitioner to continue to practise will endanger the health and safety of the public or the welfare of animals, suspend the registration of that veterinary practitioner.

Division 3—Formal and Informal hearings

- Clause 34 sets out what the Board must do if it determines that an informal hearing is to be held into the professional conduct of a veterinary practitioner.
- Clause 35 sets out the constitution of a panel for an informal hearing and provides for the Governor in Council to appoint alternate members.
- Clause 36 states what must be included in a notice about an informal hearing.
- Clause 37 provides for the conduct of an informal hearing.
- Clause 38 sets out what the findings and determinations of the panel may be at an informal hearing.
- Clause 39 provides for changing an informal hearing to a formal hearing in certain circumstances.
- Clause 40 states that the veterinary practitioner may request a review of the findings and determinations of the informal hearing by a formal hearing.
- Clause 41 provides for certain things to be done by the Board where the Board determines that there will be a formal hearing, the veterinary practitioner requests a formal hearing or the Board or an informal hearing panel has referred a matter to an informal hearing.
- Clause 42 sets out the constitution of a panel for a formal hearing and provides for the Governor in Council to appoint alternate members.
- Clause 43 states what must be included in a notice about a formal hearing.
- Clause 44 provides for the conduct of a formal hearing.
- Clause 45 sets out what the findings and determinations of the panel may be at a formal hearing into a veterinary practitioner's conduct. It also provides that the Board has the power to suspend the registration of a veterinary practitioner who does not comply with certain determinations made at a formal hearing.
- Clause 46 sets out what the findings and determinations of the panel may be at a formal hearing into a veterinary practitioner's ability to practise.

Division 4—General Provisions relating to hearings

- Clause 47 sets out the procedure to be followed at formal and informal hearings.

- Clause 48 provides for a formal panel to have the powers given under sections 14, 15, 16 and 21A of the **Evidence Act 1958**.
- Clause 49 provides that a determination of a panel is to have the effect as if it were a determination of the Board and a fine imposed by a panel may be recovered by the Board as a debt due to the Board.
- Clause 50 states that where the Board imposed a condition, limitation, restriction or suspension pending the completion of a formal hearing that condition, limitation, restriction or suspension must be removed if the panel determines it should be removed.
- Clause 51 states that the Board or panel must give reasons for its determinations, specifies who may apply to the Board or panel for reasons and gives time limits for the application and the giving of the reasons.
- Clause 52 requires notification and provides that where a panel has made certain determinations the Board must give notice of the determination in the Government Gazette and to certain bodies or persons. No action for defamation lies against the Board or its members for the giving of such notice. It also provides that, where a complaint has been made to the Board, the Board must notify the complainant of whether or not a hearing will be conducted into the matter and the nature of that hearing, whether the complainant can make submissions and the findings and determinations of the hearing.
- Clause 53 makes it an offence to publish or broadcast, or to cause to be published or broadcast, a report about a formal hearing which contains information enabling identification of the complainant or a witness in the hearing unless the complainant or witness consented to this before the publication or broadcast.
- Clause 54 provides for the terms and conditions of appointment of panel members.

PART 4—REVIEW BY THE ADMINISTRATIVE APPEALS TRIBUNAL

- Clause 55 provides for review by the Administrative Appeals Tribunal (AAT) of a decision of the Board and sets out the circumstances in which a person aggrieved by a decision of the Board may apply to the AAT for review of the Board's decision.
- Clause 56 requires that, where a decision of the Board has been reviewed and changed by the AAT, the Board must notify certain bodies or persons.

PART 5—OFFENCES

- Clause 57 creates a number of offences in relation to claims by persons as to registration.
- Clause 58 makes it an offence to obtain registration or procure registration for any person by fraud or by false representation or to forge or alter any certificate of registration under this Act or to aid in the commission of any of these offences.
- Clause 59 exempts certain organisations teaching or instructing or carrying out research into veterinary science, surgery or medicine from the offences relating to claims by unregistered persons.

PART 6—ADMINISTRATION

- Clause 60 establishes the Veterinary Practitioners Registration Board of Victoria as a body corporate.
- Clause 61 sets out the powers, functions and consultation requirements of the Board.
- Clause 62 sets out the membership of the Board.
- Clause 63 sets out the term of office of Board members.
- Clause 64 provides for the resignation and removal of Board members.
- Clause 65 provides for the appointment by Governor in Council of the President and Deputy President of the Board who are to be veterinary practitioners and provides for the resignation and removal of those office bearers.
- Clause 66 states that the Governor in Council may, in accordance with certain terms and conditions, appoint an acting member of the Board.
- Clause 67 provides for the fixing of, and the payment of, fees and allowances to Board members.
- Clause 68 sets out the procedure of the Board.
- Clause 69 requires a member of the Board to disclose any interest in any matter to be considered by the Board and states to what extent the member may then take part in the meeting.
- Clause 70 provides that resolutions of the Board may be made without the Board having to meet.

- Clause 71 provides that not less than two thirds of the Board members may agree to hold a meeting of the Board by a means or combination of means as may be approved by the President of the Board.
- Clause 72 provides that an act or decision of the Board is not invalid in certain circumstances.
- Clause 73 provides an indemnity for Board members for actions done in good faith in the exercise of a power under this Act.
- Clause 74 provides for employment of staff by the Board.
- Clause 75 sets out the power of the Board to delegate its powers and functions under this Act and the restrictions on that power.
- Clause 76 prohibits the disclosure of information by members and staff of the Board except in specified circumstances.

PART 7—REPORTING AND FINANCIAL PROVISIONS

- Clause 77 establishes the Veterinary Practitioners Registration Board Fund and describes what money must be paid into this fund and what expenses the Board must pay out of this fund.
- Clause 78 sets out the Board's investment powers.

PART 8—ENFORCEMENT AND SUPPLEMENTARY POWERS

- Clause 79 provides for certain persons to take proceedings under this Act in the name of the Board.
- Clause 80 provides that the Board must issue an identification card to each person appointed by the Board to obtain or execute a search warrant. That person must produce the identification card, in performing his or her functions, when requested to produce the card.
- Clause 81 gives the Board the power to appoint a person to apply to a magistrate for the issue of a search warrant in specified circumstances.
- Clause 82 provides for an announcement of entry immediately before executing a warrant.
- Clause 83 states that the person or persons named in the warrant must identify themselves to the occupier of the premises and give the occupier a copy of the execution copy of the warrant.

Clause 84 requires the provision of copies of, or receipts for, things seized under a warrant.

Clause 85 requires the Board to fix its fees for a period of 12 months, permits the Board to vary fees in certain cases and requires that any fees fixed by the Board are published in the Government Gazette.

PART 9—GENERAL

Clause 86 limits the jurisdiction of the Supreme Court to have defamation actions referred to in section 52 brought before it.

Clause 87 provides the Governor in Council with the power to make regulations for the purposes of this Act.

PART 10—SAVINGS, TRANSITIONALS AND AMENDMENTS

Division 1—Savings and Transitionals

Clause 88 defines words and phrases used in this Part.

Clause 89 repeals the **Veterinary Surgeons Act 1958**.

Clause 90 provides for the new Veterinary Practitioners Registration Board of Victoria to succeed the old Veterinary Board of Victoria which is abolished, that the new Board succeeds the old Board as a party to any proceedings, contract, agreement or arrangement and that the new Board may continue a matter or thing commenced by or against or in relation to the old Board.

Clause 91 provides that proceedings before the old Veterinary Board regarding a person deemed to be registered under the Act as a veterinary practitioner may be completed by the old Board and the new Veterinary Practitioners Registration Board is to give effect to decisions of the old Board regarding veterinary practitioners as if they were decisions of the new Board.

Clause 92 provides that this Act will apply to conduct of a veterinary practitioner that occurred before the operation of this Act if proceedings have not been commenced under the **Veterinary Surgeons Act 1958** before the coming into operation of this Act.

Clause 93 deems persons registered under the **Veterinary Surgeons Act 1958** to be registered under this Act. It also provides that where a person is deemed to have registration under this Act, that registration will be subject to the same conditions, limitations, restrictions or suspension as existed immediately before the commencement of this Act. It also provides for changes to

references to a veterinary surgeon registered under the **Veterinary Surgeons Act 1958** who is deemed to be registered as a veterinary practitioner under this Act to mean a person registered as a veterinary practitioner under this Act, and references to the old Veterinary Board to mean the new Veterinary Practitioners Registration Board.

Clause 94 provides for the Veterinary Practitioners Registration Board to prepare annual reports for the old Board.

Division 2—Consequential Amendments

Clause 95 makes consequential amendments to the various Acts in the Schedule.