

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Veterinary Practice Act 2003* (the **principal Act**) to give effect to recommendations arising from a statutory review of the principal Act.

The Bill amends the principal Act as follows:

- (a) to enable the Veterinary Practitioners Board (the **Board**) to require a veterinary practitioner to undergo an examination by a health practitioner for the purpose of investigating a complaint against the practitioner,
- (b) to protect persons who make complaints against veterinary practitioners from certain kinds of liability,
- (c) to authorise the Board to suspend the registration of a veterinary practitioner with immediate effect in certain circumstances,
- (d) to impose a 3-year time limit on the making of complaints against veterinary practitioners,
- (e) to make further provision with respect to the continuing professional development of veterinary practitioners,

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- (f) to make other miscellaneous amendments.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Veterinary Practice Act 2003 No 87

Complaints against veterinary practitioners

Schedule 1 [16] enables the Board to require a veterinary practitioner against whom a complaint has been made to undergo an examination by a health practitioner. The health practitioner will be required to prepare a report for the Board and will be protected from certain kinds of liability in relation to the preparation of the report. If a veterinary practitioner refuses to undergo an examination, it will be evidence, for the purposes of the principal Act, that the practitioner does not have sufficient physical or mental capacity to practise veterinary science. **Schedule 1 [21]** makes it an offence to disclose any information contained in a report by a health practitioner (maximum penalty: 50 penalty units, currently \$5,500). Such a report may not be used in civil proceedings before a court and a person may not be compelled to produce a report or give evidence in relation to a report or its contents in any such civil proceedings. **Schedule 1 [1]** defines **health practitioner** to mean any person registered in a health profession under the Health Practitioner Regulation National Law.

Schedule 1 [18] makes further provision in respect of the powers of the Board after it has completed an investigation into a complaint against a veterinary practitioner. The Board will be able to take various actions against a veterinary practitioner if it is satisfied that the practitioner is guilty of unsatisfactory professional conduct or professional misconduct. The Board will not be required to apply to the Administrative Decisions Tribunal (the **Tribunal**) for a disciplinary finding against a veterinary practitioner in all cases of professional misconduct as it is currently required to do. However, if the Board is satisfied that a veterinary practitioner is guilty of professional misconduct of a kind that is of a sufficiently serious nature to justify the suspension or cancellation of a veterinary practitioner's registration, the Board must apply to the Tribunal for a disciplinary finding against the practitioner.

The Board will be able to suspend the registration of a veterinary practitioner with immediate effect if satisfied that it is justified to protect the health or safety of a person or the health or welfare of an animal or to prevent damage to Australia's international reputation in relation to animal exports, animal welfare, animal produce or sporting events. **Schedule 1 [19] and [20]** are consequential amendments.

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Schedule 1 [14] protects a person who makes a complaint in good faith against a veterinary practitioner, so that the making of a complaint does not constitute a breach of professional ethics or a ground for civil proceedings and no liability for defamation is incurred.

Schedule 1 [13] provides that the Board is not required to investigate a complaint about the conduct of a veterinary practitioner if the complaint is made more than 3 years after the conduct is alleged to have occurred, unless the Board determines that it is just and fair to investigate the complaint having regard to the delay and the reasons for the delay.

Schedule 1 [17] authorises the Board, if it dismisses a complaint against a veterinary practitioner, to make a recommendation to the practitioner, rather than issuing a caution, as it is currently authorised to do.

Impairment

The proposed Act replaces the concept of a veterinary practitioner who is not fit to practise by reason of infirmity, injury or illness (whether mental or physical) with the concept of suffering from an impairment. **Schedule 1 [3]** provides that a person suffers from an *impairment* if the person suffers from any physical or mental impairment, disability, condition or disorder which detrimentally affects, or is likely to detrimentally affect, the person's physical or mental capacity to practise veterinary science. **Schedule 1 [6]** authorises the Board to refuse to register a person as a veterinary practitioner if the Board is satisfied that the person is not fit to practise veterinary science because the person suffers from an impairment. **Schedule 1 [7]** authorises the Board to impose a condition on the registration of a veterinary practitioner having regard to any impairment suffered by the practitioner.

Schedule 1 [9] requires a veterinary practitioner to include details of any impairment suffered by the practitioner in the practitioner's annual return to the Board.

Schedule 1 [12] and [22] are consequential amendments.

Continuing professional development

Schedule 1 [10] requires a veterinary practitioner to include details (prescribed by the regulations) of any continuing professional development undertaken by the practitioner in the practitioner's annual return to the Board.

Schedule 1 [11] extends the definition of *unsatisfactory professional conduct* to include a failure by a veterinary practitioner, without reasonable excuse, to comply with any continuing professional development requirements determined by the Board.

Schedule 1 [24] makes it clear that the Board's function to promote, provide for and facilitate the professional development of veterinary practitioners includes the function of determining the requirements for continuing professional development of veterinary practitioners.

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Protection from incrimination

Schedule 1 [15] provides that a person is not excused from answering any question, providing any information or producing a document in complaint proceedings before the Board on the grounds of self-incrimination. However, any answer given or

information provided by the person cannot be used as evidence against the person in criminal proceedings if the person objected at the time to giving the answer or providing the information on the ground of self-incrimination or if the person was not warned that the person may object.

Miscellaneous provisions

It is an offence under the principal Act for a corporation to represent itself as a veterinary practice unless one or more veterinary practitioners has, or have, the controlling interest in the corporation. **Schedule 1 [2]** amends the definition of ***controlling interest*** so that a veterinary practitioner will no longer be required to be involved in decisions about the financial policies of the corporation.

Schedule 1 [8] provides that the Board is to consider the advice of the Australasian Veterinary Boards Council Inc when it approves courses of study in veterinary science for the purposes of the registration of veterinary practitioners.

Schedule 1 [4] extends an existing offence that prohibits an employer from directing or inciting a veterinary practitioner to engage in unsatisfactory professional conduct or professional misconduct to all employers of veterinary practitioners, not only employers whose principal business is the supply of goods or materials used in connection with agriculture. **Schedule 1 [5]** is a consequential amendment.

Schedule 1 [23] provides that the Minister is to select the academic members of the Board from a panel prepared jointly by the University of Sydney and Charles Sturt University, not only the University of Sydney as is currently the case.

Schedule 1 [25] enables savings and transitional regulations to be made as a consequence of the enactment of the proposed Act.

Schedule 1 [26] inserts savings and transitional provisions.