



# ABVMA Complaints Process

**The ABVMA is the professional regulatory organization responsible for regulating the practice of veterinary medicine in the province of Alberta, pursuant to the *Veterinary Profession Act*, the *Veterinary Profession General Regulation*, the *ABVMA Bylaws* and *ABVMA Council Guidelines*. The *Veterinary Profession Act* (VPA), Part 5, Complaints, provides for a process to receive complaints regarding the conduct of a veterinarian.**

**This document provides an explanation of the process for members of the public.**

As described in the VPA, Part 5 upon receipt of a written complaint the Complaints Director must initiate the legislated complaint process. The current interpretation of a written complaint is the receipt of a signed original letter through the mail. ABVMA will make some accommodations to receive complaints by email provided documents are secure, meaning not in the body of an email or a word document. It is particularly important that there is clarity about what constitutes the complaint.

A complainant may complain about a registered member, permit holder or student. A registered member includes a registered veterinarian or registered veterinary technologist. Sec 27:

It is required that the complainant determine against whom the complaint will proceed. The Complaints Director does not make the determination against whom the complaint will proceed. If there is not clarity, a complainant may discuss the matter with the Complaints Director.

The complainant's obligations during this process:

1. Write and submit the letter of complaint that is clear about whom the complaint is against;
2. Be available for an interview with the appointed investigator and answer questions and/or provide additional information; and
3. Comply with a request and/or subpoena to provide evidence at a hearing is necessary.

Upon receipt of a letter of complaint, the typical step for the Complaints Director is to appoint an investigator pursuant to section 28(2)(e) of the VPA.

The Complaints Director will send a registered letter to the investigated member that serves to formally notify the member of the complaint. The investigated member is entitled to receive the particulars of the complaint. To do so, the complete letter of complaint and any attachments are sent to the investigated member.

The member is required to provide a response to the letter of complaint and forward all information, including the relevant medical records. The response is provided to the appointed investigator.

### **Investigation**

The Complaints Director typically appoints an investigator to investigate the complaint. The investigator's role is to serve as the unbiased collector of the facts relevant to the matter. The investigator may conduct interviews, gather, and review medical records and other documents, and may, in some cases, seek an expert opinion. The investigation may be broad and far-reaching, and any matter relating to the conduct of the investigated member that comes before the investigator during the investigation may be investigated and acted on by the Complaint Review Committee ("CRC"). Matters initially unrelated to the substance of the complaint may be investigated with due notice to the member.

The investigator may inform the Complaints Director if it becomes apparent that both the complainant and the member are willing to resolve the matter. The Complaints Director may work to resolve the matter subject to section 28(2)(a) or (b) if he feels that a resolution would be appropriate.

The investigator does not make findings or recommendations, and as such is not a decision maker in the complaints process. The investigator prepares an investigator's report which is submitted to the CRC.

### **The Complaint Review Committee**

The CRC is composed of eight registered veterinarians, two registered veterinary technologists and two members of the public. This committee makes the preliminary threshold decision on a complaint. The members of the CRC evaluate the investigator's report and determine if there is information in the report, that, if it is proven to be true at a hearing, may reasonably lead to a finding of unprofessional conduct. If that is the case, the matter is referred to the Hearings Director for a hearing.

Alternatively, if the CRC determines there is insufficient or no evidence of unprofessional conduct or that the complaint is trivial or vexatious, the CRC may dismiss the complaint. The CRC may also refer the complaint for further investigation.

### **CRC Decision and Reasons**

If a complaint is dismissed by the CRC, the committee provides a written decision (including reasons for dismissal) to both the investigated member and the complainant. The reasons describe how and why the CRC reached their decision to dismiss the complaint. The VPA provides that the complainant must be informed of their right to apply to the Hearings Director for a review of the CRC decision to dismiss. If the complainant has reason to, they may apply in writing to the Hearings Director for a review of the decision to dismiss which is undertaken by a committee of ABVMA Council.

If a review of the decision to dismiss is requested, the complainant and the investigated member may be given the opportunity to make additional submissions to the Committee of ABVMA Council (COC). The COC may make a decision to refer the matter for a hearing, to confirm that the complaint is dismissed, or to request additional investigation.

### **Hearings Director**

If the CRC or the COC makes a decision to refer a complaint for a hearing, the process becomes adversarial by nature.

The Hearings Director is responsible for setting the date, time and location of a hearing and issues a Notice of Hearing and a Notice to Attend. The Notice of Hearing contains the specific allegations or charges that are advanced against the member. The allegations of unprofessional conduct are prepared and advanced based on input from members of the CRC. The Hearings Director is responsible for the selection of the members that will sit as the panel judges on the Hearing Tribunal.

It is the legislated responsibility of the ABVMA, as a regulatory body, to bring forth evidence and testimony that advance the specific allegations against the member at a hearing. ABVMA legal counsel will function as the prosecutor for the ABVMA. The investigated member is strongly urged to retain their own legal counsel to act in their defense.

A complainant will receive notice of the hearing and is entitled to receive a copy of the decision and reasons and if applicable a copy of the consent order.

### **Consent Orders**

An investigated member may take responsibility for their conduct at any time during the process, from the time of a complaint up to the point where the Hearing Tribunal makes a decision. The investigated member may submit a written admission of unprofessional conduct to the Hearings Director. Consent discussions are held to arrive at a consent order, which details the agreed statement of facts, the agreed findings of unprofessional conduct and the agreed sanctions. An admission of unprofessional conduct and an agreed upon consent order proposal are presented as a joint submission to the Hearing Tribunal.

### **Hearing**

Hearings are normally open to the public but may be closed if so ordered by the Hearing Tribunal. Hearings take place not in a courtroom but in a boardroom, usually at the office of the ABVMA legal counsel. For a hearing involving a veterinarian, the Hearing Tribunal is composed of three registered veterinarians and one member of the public. For a hearing involving a registered veterinary technologist, the Hearing Tribunal will consist of two registered veterinary technologists, one registered veterinarian, and one member of the public. The Hearing Tribunal is the second group of peers that reviews the matter and is the 'panel of judges' that will make the determination whether there is a finding of unprofessional conduct.

The Hearing Tribunal receives evidence, hears sworn testimony, and asks questions of the witnesses regarding the matter. It will decide if the conduct of the member does or does not constitute unprofessional conduct as defined in the VPA.

At a contested hearing, the complainant will be called, and may be issued a subpoena, to provide testimony in front of the hearing tribunal.

### **Orders of the Tribunal**

If the Hearing Tribunal makes a finding of unprofessional conduct against the member, at either a contested hearing or through a Consent Order, the Hearing Tribunal has the authority to impose sanctions, as outlined in section 41.1 of the VPA. Orders of the tribunal may include:

- a letter of reprimand or caution issued as against the member,
- completion of a specific course of study,
- payment of partial or actual costs of the investigation and hearing,

- suspension or cancellation or member registration,
- payment of a fine,
- publication of the case on a with or without names basis, and/or
- any order deemed appropriate by the tribunal.

The Hearing Tribunal will not order that the investigated member pay compensation or any financial consideration as a result of a hearing.

## **Appeal**

The investigated member has the right to appeal the findings or orders of the Hearing Tribunal to Council of the ABVMA. Council will undertake the appeal on the record of the Hearing Tribunal. Ultimately, the member may appeal any finding, order, or direction of Council to the Alberta Court of Appeal.

The complainant does not have standing to appeal a finding or order of the hearing tribunal.

## **Conclusion**

The ABVMA has an obligation to administer the complaints process according to the legislation. All complaints are considered equally, and those parties involved in the process undertake their responsibilities diligently. Administering the complaints process in accordance with the VPA protects the profession's privilege of self-regulation, the integrity of the profession, and the public interest.

If any person has a question about the ABVMA Complaints Process, they are encouraged to call the ABVMA Complaints Director at 780 784 5223.

Phil Buote, DVM  
ABVMA Complaints Director and Interim Registrar