

Health Insights

Veterinary practice in WA: Proposed amendments to the current regulatory framework

The Veterinary Practice Bill 2021 (WA) (**Bill**) had its third reading in the legislative council on 2 September 2021.

The Bill will repeal the *Veterinary Surgeons Act 1960* (**Current Act**) and the *Veterinary Surgeons Regulations 1979* (**Current Regulations**).

The Bill introduces new regulations that align with the proposed regulatory framework. However, the regulations are not yet available.

The Bill proposes to make a number of changes to current terminologies, including replacing the term “veterinary surgeon”, as it appears in the Current Act, with “veterinarian” and “veterinary surgery” with “veterinary medicine”. In addition, the relevant Board will be known as the Veterinary Practice Board of Western Australia (**Board**).

Relevantly, the Bill introduces a formal process for the Board to deal with suspected impairments, introduces immediate action powers for the Board, and empowers the Board to deal with certain disciplinary matters as opposed to having to refer all disciplinary matters to the State Administrative Tribunal (**Tribunal**).

Interstate Veterinarians

The Bill recognises veterinarians practising nationally. It is proposed that an interstate veterinarian whose primary place of residence is not Western Australia will be permitted to practice as a veterinarian provided they are currently registered in their own jurisdiction, and they will reside in Western Australia for no longer than three months. After the three month period, they will be required to apply for registration in Western Australia.¹

The new legislative framework will also:

- a) permit non-veterinarians to own veterinary practices,² and

¹ *Veterinary Practice Bill 2021* (WA) cl 22.

² [Explanatory Memorandum](#), *Veterinary Practice Bill 2021* (WA) 2.

- b) elevate the regulatory process of veterinary nurses into the primary legislation and provide regulation for veterinary nurses that mirrors that of veterinarians.³

Impairment

The Bill provides an avenue for the Board to deal with practitioners who are, or may be, suffering from an impairment which may impact on his or her ability to practise veterinary medicine.

The Bill defines an impairment, in relation to a person, as a physical or mental impairment, disability, condition or disorder (including substance abuse or dependence) that detrimentally affects or is likely to detrimentally affect –

- (a) if the person is a veterinarian or an applicant for registration as a WA veterinarian – the person’s capacity to practise veterinary medicine, or
- (b) if the person is a veterinary nurse, or an applicant for registration as a veterinary nurse – the person’s capacity to practise as a veterinary nurse.⁴

As it stands, the Current Act, offers no formal process for identifying and dealing with veterinarians who have an impairment.

The proposed amendments, dealt with in parts 9 and 10 of the Bill, contemplate a health assessment being paid for by the Board. This shifts the focus towards managing the mental and physical health of veterinarians.

It is proposed that any person may notify the Board that a veterinarian or veterinary nurse has, or may have, an impairment. However there is no formal requirement to notify of impairments. When the Board is notified of the impairment, they must inform the veterinarian or nurse concerned about the notification and give them the opportunity to respond.

The Board will then be required to assess the notification and can decide to either require the practitioner to undertake a health assessment or decide to take no further action.

Importantly, impairments are only relevant from the Board’s perspective if they impact on a practitioner’s capacity to practise the profession.

Immediate Action

Part 6 of the Bill proposes to empower the Board to take immediate action in circumstances where the Board is satisfied that the practitioner poses an imminent risk of substantial injury or harm to a person (including the veterinarian or veterinary nurse) or animal.

³ Ibid 3.

⁴ *Veterinary Practice Bill 2021* (WA) cl 3.

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Proposed immediate action powers include the Board being able to impose a condition on a practitioner's registration, modify an existing condition on a registration or suspend the registration of a practitioner. The maximum proposed length of a suspension by way of immediate action is 28 days.

Disciplinary Process

The proposed amendments will empower the Board to investigate complaints, hold an inquiry and make orders following a finding of unprofessional conduct, including imposing fines of up to \$2,000, imposing or modifying conditions on a practitioner's registration, or issuing a reprimand. Conduct of a more serious nature (professional misconduct) will be required to be referred to the State Administrative Tribunal.⁵

"Unprofessional conduct" is defined to include:

- (a) doing or omitting to do something in connection with the practice of veterinary medicine in a manner, or to an extent, that falls short of the standard of competence, diligence and safety that a member of the public is entitled to expect of a reasonably competent veterinarian or veterinary nurse; and
- (b) conduct that is prescribed to be unprofessional conduct.

"Professional misconduct" is defined to include:

- (a) unprofessional conduct if the conduct involves a substantial or consistent failure to reach or maintain a reasonable standard of competence, diligence and safety;
- (b) conduct, whether occurring in connection with the practice of veterinary medicine or not, that is inconsistent with a person being a fit and proper person to hold registration as a WA veterinarian or veterinary nurse; and
- (c) conduct that is prescribed to be professional misconduct.

Summary

If passed, the Bill will provide the Board with regulatory powers similar to those afforded to AHPRA and the relevant National Boards further to the Health Practitioner Regulation National Law as in force in each Australian state and territory.

A key change will be the Board's ability to independently deal with matters involving "unprofessional conduct", thereby only having to refer more serious cases involving "professional misconduct" to the Tribunal. This is a significant shift noting that, currently, all disciplinary matters involving allegations of "unprofessional conduct" (as defined in the Current Act) are required to be referred to the Tribunal.

As outlined in the explanatory memorandum, one of the purposes of the Bill is to facilitate the regulation of the practise of veterinary medicine on a national basis. There are currently inconsistencies across the states. It is anticipated that the Bill will bring WA more in line with other states, albeit the proposed amendments will still not entail a complete shift to a national system.

⁵ *Veterinary Practice Bill 2021* (WA) cl 100.

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