
GOVERNMENT GAZETTE NO. 39380

DEPARTMENT OF AGRICULTURE, FORESTRY & FISHERIES

No. R1081

09 NOVEMBER 2015

**VETERINARY AND PARA-VETERINARY PROFESSIONS ACT, 1982
(ACT NO 19 OF 1982)**

REGULATIONS RELATING TO SUSPENSIONS, INSPECTIONS & APPEALS

The Minister of Agriculture, Forestry & Fisheries, has after consideration and approval of a relevant recommendation by the South African Veterinary Council, made the following regulations under sections 12A, 28A(2)(c), and 31A(6)(c) respectively, read with section 43, of the Veterinary and Para-Veterinary Professions Act, 1982 (Act No 19 of 1982), as amended by the Veterinary and Para-Veterinary Professions Amendment Act, 2012 (Act No 16 of 2012), as set out in the Schedule.

SCHEDULE

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PART 1 REGULATIONS RELATING TO SUSPENSIONS

1. Definitions

Unless the context indicates otherwise, words and phrases in these regulations, have the meaning assigned thereto in the Act and -

"Act" means the Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of 1982), and any word or expression to which a meaning has been assigned in the Act bears such meaning;

"ad hoc Suspension Committee" means an ad hoc committee established by the Council to conduct a suspension hearing;

"complaint" means any information regarding the alleged unprofessional conduct by a person registered under the Act that comes to the attention of the registrar or the Council, or a complaint, charge or allegation of unprofessional conduct against such a person;

"decision" means a decision taken by the Council to institute an inquiry in terms of section 31(1) of the Act or by the registrar to refer the matter for further investigation in terms of section 31A (1) of the Act;

"evidential material" bears its original meaning in terms of the law of evidence of the Republic of South Africa, and includes but is not limited to any document, record, recording, computer disc or tangible information or thing, and any material which, in the opinion of a Committee referred to in these regulations, has probative value;

"Executive Committee" means a Committee appointed by Council in terms of Section 11(1) of the Act to, in terms of Section 11(2), exercise all the powers and perform all the functions of Council during the periods between meetings of the Council;

"Investigation Committee" means a committee established by the Council in terms of Section 12 of the Act to evaluate complaints as contemplated in section 31A of the Act against veterinary professionals and para-veterinary professionals registered or authorised in terms of the Act;

"inquiry" means an inquiry instituted into the conduct of any registered person in terms of section 31 or section 31A (1) of the Act;

"practitioner" means a person who is registered with the Council in a profession registrable in terms of the Act;

"pro forma complainant" means any person appointed by the Council to represent the complainant and to present the complaint at the ad hoc Suspension Committee;

"registered person" means a person registered as a student in terms of section 25(1)(i), read with section 25(2) of the Act, or a person authorised by the Council to render a particular service for gain in terms of section 23(1)(c), or a person registered to practise a veterinary or para-veterinary profession for gain in terms of section 25(1)(ii), read with section 25(2), of the Act;

"respondent" means a practitioner registered under the Act against whom a complaint has been made; and

"suspension hearing" means a hearing conducted by an ad hoc Suspension Committee to determine whether or not to suspend a practitioner from practising his or her profession pending the institution of an inquiry in terms of section 31(1) of the Act.

2. Circumstances for suspension

Upon receipt of a complaint by the registrar which involves—

- (a) failure to comply with the requirements in respect of continuing professional development (CPD) for three or more consecutive CPD cycles, or by two or more subsequent convictions in respect of CPD;
- (b) an imminent threat or danger substantiated by a reasonable apprehension of threatened or impending injury or harm for or to the safety of a person, the public or the animals involved;
- (c) the conduct of the practitioner which can cause serious reputational damage to the relevant profession; or
- (d) the circumstance where a complaint, as set out in paragraphs (b) and (c), is laid subsequent to a previous conviction of unprofessional, improper or disgraceful conduct, which was serious in nature, the registrar may, subject to regulations 4 and 5, forward such complaint to the ad hoc Suspension Committee established by Council to suspend a practitioner from practising his or her profession pending the institution of an inquiry in terms of section 31(1) of the Act.

3. Preliminary procedure

- (1) The registrar must, within fourteen (14) days of receiving a complaint, request the complainant to confirm the contents of such complaint under oath.
- (2) The registrar may, within ten (10) days of receiving a complaint affidavit, call for further particulars to such complaint in the form of supplementary statements, affidavits or supporting documentation from the complainant and may cause further investigation to be made.
- (3) The registrar may -
 - (a) take or cause to be taken an affidavit from any witness or potential witness able to provide relevant information or evidence pertaining to the complaint;
 - (b) call upon any person (including the respondent) to produce for inspection before or at a suspension hearing, evidential material in his or her possession which the registrar considers to be of potential relevance in relation to a complaint, and
 - (c) issue a summons to a witness or potential witness, essentially in the form of Annexure A.
- (4) The registrar must as soon as possible forward a complaint, together with any evidential material, to the chairperson of the Investigation Committee for further consideration.
- (5) If the chairperson of the Investigation Committee is of the opinion that the complaint, together with any evidential material, reveals prima facie evidence of unprofessional conduct of the nature referred to in regulation 2 and that the matter should be considered further, he or she must refer the matter to an ad hoc Suspension Committee and instruct the registrar to appoint the pro forma complainant to present the case before the ad hoc Suspension Committee.
- (6) An ad hoc Suspension Committee referred to in sub-regulation (5) established for the purpose of deciding whether or not to suspend a practitioner from practising his or her profession pending the institution of an inquiry contemplated in section 31(1) of the Act, must consist of at least three registered members of such profession and the chairperson, who must be a member of the Council contemplated in section 5(2)(d) of the Act.
- (7) The registrar and the chairperson of an ad hoc Suspension Committee and, having regard to the degree of seriousness and urgency of the matter, must determine the date, time and place of a hearing for consideration of the matter by such an ad hoc Suspension Committee.
- (8) When the date, time and place referred to in sub-regulation (7) has been determined, the registrar must -
 - (a) issue a notice, essentially in the form of Annexure B, and send it to the respondent at his or her last known address registered with the Council, by prepaid registered post, provided that the respondent is alerted by telephone or by e-mail to such posting, or by e-mail, if so agreed in writing, or through service by the Sheriff of the High Court at his or her residential address or place of business or employment informing the respondent of the following -
 - (i) the date, time and place of the suspension hearing; and
 - (ii) the purpose of such suspension hearing, namely, to consider whether the respondent should be suspended from practising his or her profession, pending the institution of an inquiry contemplated in section 31(1) of the Act;

- (b) provide the respondent simultaneously with particulars of the complaint and copies of any available statement, affidavit, opinion or any other evidential material in support of the complaint;
 - (c) inform the respondent of his or her right to obtain legal representation; and
 - (d) inform the respondent of his or her right to make written representations in person or through a legal representative in the form of an answering affidavit to the complaint and other evidential material in support thereof, within a period of fifteen (15) days from the date of service of the notice referred to in sub-paragraph (a) or within such period as may be determined by the registrar, having regard to the degree of seriousness and urgency of the matter, and such written representations are to be delivered at the office of the registrar in Pretoria not later than 10:00 am three (3) days before the date of the suspension hearing.
- (9) If the notice referred to in sub-regulation (8)(a) is sent by prepaid registered post, it shall be deemed to have been served, received and to have come to the knowledge of the respondent within a period of 10 days after the date upon which it was dispatched at the post office to his or her last known address registered with the Council.
- (10) The notice referred to in sub-regulation (8)(a) may call upon the respondent to make available at the suspension hearing all records in his or her possession pertaining to his or her practice or to any patients or former patients who are the subject of a complaint or whose records are relevant to a complaint.
- (11) The registrar must thereupon provide each member of the ad hoc Suspension Committee with copies of the notice, including all particulars of the complaint, and copies of all statements, opinions, affidavits and other evidential material referred to in sub-regulation (8), and of any representations received from the respondent or his or her legal representative.
- (12) The record, or any portion thereof, of a lawfully constituted court, inquest inquiry or other statutory body or tribunal must be regarded as prima facie evidence for purposes of a suspension hearing, if it has been certified to be a true copy.

4. Procedure at suspension hearing

- (1) An ad hoc Suspension Committee must ensure that the respondent has been properly notified of the suspension hearing in terms of regulation 3 (8).
- (2)(a) At any stage during a suspension hearing, the ad hoc Suspension Committee may, for the purpose of deciding any issue and at its discretion, call upon any person, including the respondent, to give oral evidence under oath or affirmation, provided that if the respondent is called upon to give evidence, he or she may elect not to give evidence.
- (2)(b) If a respondent, after having been called upon to give evidence under oath or affirmation, elects not to give any evidence under oath or affirmation, the chairperson of the ad hoc Suspension Committee shall advise the respondent that the matter will be decided without such evidence.
- (3)(a) For the purpose of a suspension hearing, an ad hoc Suspension Committee may take evidence and may, under the hand of the chairperson of such ad hoc Suspension Committee or the registrar, summon witnesses and require the production of any book, record, document or thing, and may, through the chairperson of such ad hoc Suspension Committee, administer an oath to any witness or accept an affirmation from him or her, and may examine any book, record, document or thing which any witness has been required to produce.
- (3)(b) A summons, essentially in the form of Annexure A, to appear before an ad hoc Suspension Committee as a witness or to produce any book, record, document or thing must be

signed by the chairperson of such ad hoc Suspension Committee or the registrar and must be served either by registered letter sent through the post or in the same manner as it would have been served if it were a subpoena issued by a magistrate's court, unless it is agreed in writing between the registrar and the person concerned that the summons may be served by e-mail.

- (3)(c) Every person summoned in terms of this sub-regulation is bound to obey the summons and any person who, has been duly summoned -
- (i) refuses, or without sufficient cause fails, to attend and to give evidence relevant to the suspension hearing at the time and place specified in the summons;
 - (ii) refuses to take the oath or to make an affirmation when required by the chairperson of an ad hoc Suspension Committee to do so; or
 - (iii) refuses, or without sufficient reason fails, to produce any book, record, document or thing which he or she has in terms of the summons been required to produce;
 - (iv) is guilty of an offence and on conviction liable to a fine not exceeding R5000.00 (five thousand rand): Provided that every person so summoned is entitled to all privileges to which a witness subpoenaed to give evidence before a provincial division of the High Court is entitled.
- (4) If any person, including the respondent, is called upon by an ad hoc Suspension Committee to give evidence under oath on any matter determined by such committee, any member of such committee or any legal representative appointed by such committee for this purpose may ask the respondent questions in the order determined by the chairperson of such committee.
- (5) The respondent or his or her legal representative must be afforded an opportunity to ask questions or to cross-examine any person called upon by the ad hoc Suspension Committee to give evidence under oath.
- (6) The chairperson of the ad hoc Suspension Committee must administer any oath or affirmation.
- (7) The ad hoc Suspension Committee, after having afforded the pro forma complainant and the respondent or his or her legal representative an opportunity to address such committee on the merits of the suspension application, must deliberate in camera and inform the respondent of its decision to suspend or not to suspend the respondent.
- (8) If the ad hoc Suspension Committee is not in a position to make a decision immediately after the suspension hearing, it may reserve its decision and inform the respondent or his or her legal representative that he or she will be notified in writing of such committee's decision as to whether to suspend or not to suspend the respondent.
- (9) If the ad hoc Suspension Committee decides that the respondent is to be suspended from practising his or her profession, pending the institution of an inquiry contemplated in section 32 of the Act, the respondent must be notified verbally of such decision and the reasons therefore at the suspension hearing, which must subsequently be confirmed in writing by the registrar.
- (10) The respondent must be informed of his or her right to appeal and his or her right to judicial review of the decision.
- (11) An order of suspension from practice in terms of section 28A of the Act shall remain in operation pending an appeal against or application to review the decision.
- (12) If the ad hoc Suspension Committee decides to suspend the respondent, it must, after such decision direct the registrar to proceed to act in accordance with the rules to the Inquiries into alleged unprofessional conduct under the Act.
- (13) A decision of an ad hoc Suspension Committee to suspend a person from practising his or her profession in terms of section 28A of the Act shall be deemed to be a directive of

an Investigation Committee to the Registrar to arrange for the holding of an inquiry contemplated in section 31(1) of the Act.

- (14) If a registered person has been suspended from practising his or her profession, pending the institution of an inquiry contemplated in section 31(1) of the Act, the matter must further be given priority in terms of the rules relating to the conduct of inquiries into unprofessional conduct under the Act.
- (15) If an ad hoc Suspension Committee decides after a suspension hearing that the matter does not warrant the suspension of the respondent, such Committee must inform the respondent of its decision and direct the registrar to act further in accordance with the rules relating to the inquiries into unprofessional conduct under the Act and to refer the transcript of the record of the suspension hearing, the complaint, any affidavits, representations and other evidential material to an Investigation Committee.

5. Access to suspension hearing

- (1) The proceedings at a suspension hearing will be held in camera.
- (2) Notwithstanding sub-regulation (1):
 - (a) the ad hoc Suspension Committee may, on good cause shown, order that no person may at any time or in any manner publish any information that may reveal the identity of a particular person, including the name of the respondent: Provided that such information may be published if a person is suspended and the ad hoc Suspension Committee has approved such publication.
- (3) Any person who infringes or fails to comply with an order made in terms of sub-regulation (2) is guilty of an offence and liable on conviction in a court of law to a fine not exceeding R5 000.00 (five thousand rand).
- (4) Typed records of all suspension hearings must be kept by the Council for a period of three (3) years and a copy of such records must, upon written request and payment of the actual cost of making a copy, be made available to the complainant, respondent or any other party who, in the opinion of the registrar, has a substantial interest in the matter.

6. Condonation

- (1) Any irregularity resulting from a failure to comply with any provisions of these Regulations before the Investigating Committee or ad hoc Suspension Committee has reached its decision does not in itself render the proceedings void;
- (2) Any clerical mistake or error may be regularised by the chairperson of the Investigation Committee or ad hoc Suspension Committee, provided that it does not unduly prejudice the respondent.
- (3) The ad hoc Suspension Committee must rule on any application for condonation in terms of this regulation.

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Annexure A

**SUMMONS TO APPEAR BEFORE AN *AD HOC* COMMITTEE OF THE
SOUTH AFRICAN VETERINARY COUNCIL**

(name of person summoned and his or her address)

is hereby summoned to appear at

(place) on

(date and time) before an ad hoc Committee of the SOUTH AFRICAN VETERINARY COUNCIL,
established in terms of

The Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of 1982), to give evidence in
respect of

and you are hereby directed to produce the following

(if the person summoned is to produce any book, record, document or thing):

(specify the book, record, document or thing concerned)

Signed at Pretoria on this the day of .

(Name and Surname)

REGISTRAR

Annexure B

<p style="text-align: center;">NOTICE TO APPEAR BEFORE AN <i>AD HOC</i> COMMITTEE OF THE SOUTH AFRICAN VETERINARY COUNCIL</p>
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(name of person and his or her address)

(registered or residential or employment address)

(by prepaid registered post or by service of the Sheriff of the High Court)

PLEASE TAKE NOTE of the following:

1. The South African Veterinary Council has received a complaint against you of unprofessional conduct of a nature that requires consideration in terms of section 28A of the Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of 1982), (hereinafter referred to as “the Act”).
2. A suspension hearing will be held into whether you should be suspended from practising your profession pending the institution of a formal inquiry in terms of section 32 of the Act.
3. You are called upon to appear at said hearing at (time) on (date) at (place).
4. You have the right to be represented by a duly qualified legal representative.
5. The following evidential material, of which copies are enclosed, will be considered at the suspension hearing:
 - (1)
 - (2)
 - (3)
 - (4)
 - (5)

(give name or description of documents or other evidential material)

6. You have the right to make written representations in the form of an answering affidavit to the complaint and other evidential material attached, which representations are to be delivered to the offices of the Registrar of the South African Veterinary Council within *days from the date of receipt or service of this notice, and not later than 10:00 three days prior to the date of the suspension hearing.
7. You are required to make the following records and/or documents available at the suspension hearing:
 - (1)
 - (2)
 - (3)

(state particulars of records and/or documents)

Signed at Pretoria on this day of .

(Name and surname)

REGISTRAR

*The period is fifteen (15) days unless specified otherwise.