

DISCIPLINARY RULES COLLATED COMMENTS

No.	Page	Proposed amendment(s)	Comment verbatim as received	Feedback from Review Committee & Council
1.		"I would like to suggest that the following statement is added to this document: Cases against veterinary and para-veterinary professionals that have been instituted as a result of death or euthanasia of the animal will only be fed into the disciplinary process provided that a post-mortem /necropsy has been performed on the animal in question."	"I can support this suggestion by providing you with the following case number: Had a post-mortem NOT been conducted in this case, I would likely have been found guilty based on the opinions passed by 4 specialists."	The IC is generally hesitant to come to conclusions without a post-mortem/necropsy report, irrespective of whether the patient was euthanised, died post-surgery or even in the event of a misdiagnosis, amongst others. A post-mortem/necropsy report also in some instances cannot give a definitive cause of death. The suggestion was not accepted.
2.	1	DRAFT RULES RELATING TO THE DISCIPLINARY PROCESSES AGAINST THE VETERINARY AND PARA-VETERINARY PROFESSIONALS -	The inquiry should cater for all categories of veterinary and para-veterinary professionals and reference to clinical records only is not enough. Also please note you may not institute an inquiry against a profession but against a professional	Actioned and amended.
	1	intends to promulgate the rules for the disciplinary process against the veterinary and the para-veterinary professionals		For explanation only, no action required.
	1	PROCEDURE AT INQUIRIES INTO UNPROFESSIONAL CONDUCT		Actioned and amended.
	3	2) The Registrar must inform the respondent that he/she may furnish copies of the relevant clinical records or supporting documents, as applicable, within 72 hours;	The complaint may not be of a clinical nature	If not, Council must be informed in writing.
	4	(a) to enter upon and search any premises or veterinary facility where clinical or any other veterinary services are rendered;		For explanation only, no action required.
	6	6. Inquiry into un professional conduct...		Actioned and amended.
	6	...into the alleged unprofessional conduct will be held and enclosing a charge as approved by the...		Actioned and amended.
	7	7. Procedure at Inquiry into unprofessional conduct		Actioned and amended.
	7	(1) In an inquiry into unprofessional conduct held		Actioned and amended.

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	8	(m) All oral evidence must be taken on oath or affirmation by the chairperson of the inquiry body;	Is the chairperson legally authorised to act as a commissioner of oaths?	Yes
	8	(3) If the respondent is found not guilty of the charge against him/her, he/she must be advised Accordingly (verbally and in writing) .		The wording was amended by adding after the word "accordingly", the phrase "depending on the circumstances". In some instances, the judgment is reserved and then later handed down in writing. This will mostly happen to the more complicated complaints.
	9	b) any evidence adduced during an inquiry into unprofessional ...		Actioned and amended.
	9	except for the official recording made by Council. The respondent should also be given choice to do their own recording, or at least the recordings should be availed to them (PAIA)	If one sided it may not appear to be fair	The wording was amended to read: "No recording devices and/or cell phones are allowed in the room the inquiry is held, except for the official recording made by Council, which will be the only officially accepted recording of the proceedings, provided that the Respondent may formally apply to the Inquiry Body to record the proceedings independently"
		Further inputs The IB and Chairperson must be impartial and must be seen to be impartial		The intended Chairperson and the IB members are always asked whether they receive any conflict of interest. If the answer is yes, the person will not be appointed. If the answer is no, they are appointed. Their names are provided to the respondent who may object in writing, and he/she must provide substantiation for the objection.
3.		See comments	Comment on lodging of complaints Please may Council consider to reduce the timeline for section 2 of clause 1 pertaining to the lodging of complaints (as attached) from twelve (12) months down to two (2) months or sixty (60) days. Most contracts and Acts within South Africa	The full Council deliberated this suggestion and resolved to reject it. Firstly, Council has a public duty in terms of the Veterinary and Para-Veterinary Professions Act to deal with complaints. Secondly, the Prescription Act provides that prescription in civil matters only occurs three (3) years after the events

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			<p>prescribe a similar period of between thirty (30) to sixty (60) days. For example, the Sectional Title Schemes Management Act of 2011 No. 8 allows for complaints to be submitted for consideration by the Ombud within sixty (60) days from the date on which the complaint arose.</p> <p>Comparatively, the SAVC's twelve (12) month period is quite extensive and onerous considering the enormous pressures of the profession.</p> <p>Furthermore, allowance is provided for in section 2 of clause 1 for Council to consider complaints beyond the prescribed time period under condonation</p>	<p>which gave rise to the cause of action or three (3) years from the date on which the plaintiff should reasonably have been able to establish that there is indeed a cause of action.</p>
4.		See comments	<p>I have some serious concerns over Investigative Methodology B. The powers of the investigative officer seem excessive. Even the police cannot enter and search your property without a court order. I thus presume Council will obtain a court order that needs to be presented by this officer?</p> <p>You do not define under what circumstances such extreme action would be deemed necessary by Council?</p> <p>There is no specification as to what qualifications and relevant experience the investigative officer would have, to be appointed?</p>	<p>Section 31A & 31B of the Veterinary and Para-Veterinary Professions Act specifically provides for this eventuality. Those provisions will be strictly complied with. The Act is available on the SAVC website.</p>
5.		See comments	<p>My comments on the proposed rule changes are as follows:</p> <p>1) the proposal that complaints have a cut-off period of one year is totally inadequate. This will inevitably result in 'serial offenders' not being investigated and weeded out of the profession; instead they will only be</p>	<p>The better part of the comment was removed as it was based on personal opinion only. The incident referred to also happened more than 10 years ago.</p> <p>If a person is found guilty of unprofessional conduct, it stays on that person's record and will be taken into account if there is</p>

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			<p>investigated on one charge and get away with years of malpractice</p> <p>2) the proposal that the SAVC only investigates complaints where the client has fully paid the bill is ludicrous. When is the SAVC going to realise that its mandate is to maintain, uphold and promote professional standards and protect the public and their animals from rogue vets (and vice versa) and it has no mandate to get involved in the financial dealings between vets and clients?</p> <p>Malpractice is malpractice, regardless of whether or not the bill has been paid. Only investigating paid-for cases is not going to go down well with the public when a vet amputates the wrong leg or euthanises the wrong animal or dispenses the wrong drug at the wrong dose and it comes out that the SAVC has changed the rules so it will only investigate when it's all been paid for.</p> <p>I have received feedback from clients about the matter and most of it is unprintable. The proposals reinforce the public perception that the profession is a closed and corrupt group which protects their favoured own and care about nothing but money. These proposals, if adopted, would bring the profession into disrepute, or at the very least, they will cost the profession dearly. For years, many vets have been getting away with gross negligence (and whatever else you want to call it) because the vast majority of them have simply not been dealt with properly. And now with social media and thousands of veterinary-related articles</p>	<p>another finding of guilty on similar unprofessional conduct.</p> <p>Council resolved that an external legal opinion must be obtained regarding the legality of the requirement. Council will then consider the matter before making a decision.</p> <p>It is rather unfortunate that we have found in practice that complaints are often used against a veterinarian as a mechanism not to pay the fees.</p>

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			<p>online, a much more savvy public has had enough and is calling the profession to account for a lot of sloppy, expensive and unnecessary work, resulting in a lot more complaints. Changing the rules to dodge the issue is not the solution, what is needed from the SAVC is leadership</p>	
6.		See comments	<p>1. <u>Re: 3. (2) 72 hours</u></p> <p>Why 72 hours? Why can't the clinical notes be submitted with/without the "response", within 30 days? <i>If</i> there is good reason that 30 days is too long, surely at least 10 days can be allowed? (Especially seeing this seems the minimum time the complainant must respond in any way.)</p> <p>a) It is a shock to receive a complaint of any kind. Any shock takes time to recover from. Allow the respondent time to process the scenario, to be present at the workplace and to calmly download the clinical notes etc. and send them on to the SAVC.</p> <p>b) Vets are still people who have busy weeks of commitments outside of busy days at work. What if this 72-hour period falls on a week with a sick child, an important family</p>	<p>The suggestion was rejected. The rules provide that clinical records must be capable of immediate retrieval. It is unfortunate that some veterinarians change their clinical records to suit their narrative once a complaint has been filed. If the time allowed is too little, the administration can consider an extension of time within reasonable limits, depending on the circumstances.</p> <p>In such an event the administration must be contacted. The circumstances will be considered, and an appropriate extension granted.</p>

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			<p>celebration, a CPD congress out of town, a few days break etc.?</p> <p>72 hours is not a reasonable length of time, it could result in unnecessary pressure and stress on the respondent in an already stressful situation. I fail to see that sending clinical notes to the SAVC is a matter of urgency at this stage in the process.</p> <p>2. <u>Re:4.(3) Investigating officer</u></p> <p>Are there other professions e.g.: medics who have this sort of protocol of officers arriving and invading space and privacy? Other than perhaps for dangerous/criminal activity this seems completely uncalled for. I was disturbed by this idea when it was first introduced for vets and still am. It seems like a completely unnecessary infringement on the workplace of professionals who uphold their own vast code of conduct daily.</p>	<p>The rules provide that clinical records must be capable of immediate retrieval. It is unfortunate that some veterinarians change their clinical records to suit their narrative once a complaint has been filed. If the time allowed is too little, the administration can consider an extension of time within reasonable limits, depending on the circumstances.</p> <p>It is unfortunate that some veterinarians (not many) commit crimes. For that reason, section 31A and 31B of the Veterinary and Para-Veterinary Professions Act were brought into effect on 9 November 2015. Section 31B allows for entry into any premises where veterinary procedures are being performed <u>and</u> provides that a warrant must be obtained from a magistrate who can grant such a warrant of there are reasonable ground to suspect that a crime is being committed at the premises.</p> <p>This procedure will not be used unless there are exigent circumstances in the event of a professional. If a lay person contravenes the Act, section 31B assists Council with gaining entrance to investigate the crime.</p>

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			<p>3. <u>Re: 3 and 4 – Clinical notes</u> Is it ethical to demand clinical notes at all? Surely this is up to each respondent as to whether they wish to use their clinical notes or not (as physical evidence to submit, or to remind them of details of the case) either:</p> <ul style="list-style-type: none"> - in the initial response, or - if the complaint results in an inquiry? <p>4. <u>4.Re:8 Accessibility of Inquiry</u></p> <p>Is having the inquiry open to members of the public and/ or journalists a legal requirement for a SAVC Inquiry? If not, why is the SAVC allowing for this and please reconsider these allowances? It seems unnecessary at this level of investigation. Again my concern is the level of extra unnecessary stress placed on the respondent, as well as others involved in the inquiry.</p>	<p>Veterinarians are obligated to keep clinical records and are required to cooperate with Council in an investigation. There is ample case law to that effect. In fact, obstructing the work of Council is a criminal offence in terms of the Act.</p> <p>The wording was amended to: <i>The proceedings at an inquiry into unprofessional conduct is closed to the public: Provided that-</i> <i>(d)If a journalist wishes to attend an inquiry in a public interest matter, that journalist must, at least five working days prior to the inquiry, formally apply to the inquiry body, to attend the inquiry. Such an application must include a valid reason for attending the inquiry, which will be considered by the Inquiry Body, who may deny or grant the application, in its discretion."</i></p>
7.		See comments	<p>I had a look at the draft rules, and picked up a few small formatting errors, and would like to ask for clarity on two things.</p> <p>For clarification:</p> <p>1. Lodging of complaint</p>	

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			<p>Is (2) and (3) not contradicting statements? Or could be better stated, maybe something like: all complaints should be submitted within 12 months of when the complaint arose.</p> <p>(6) what is the reason behind the complainant having to pay the account of the registree who is being complained against?</p> <p>Formatting</p> <p>3. Investigative Methodology A (1) second line does not line up</p> <p>4. Investigative Methodology B (1) registrar needs to have a capital R as in the rest of the document (5) should be removed - error in numbering (6) should be (5)</p> <p>Thank you for the opportunity to comment.</p>	<p>Addressed by adding "subject to subrule 1 (3)", at the end of rule 1 (2)</p> <p>See comments above.</p> <p>Fixed</p> <p>Fixed across the board.</p> <p>Fixed</p>
8.		See comments	<p>Black Veterinary Forum Recommendations</p> <p>Introduction The BVF would like to thank the SAVC for the opportunity to review and comment on these rules as well as the facilitation of a webinar on the same document.</p> <p>On evaluation of the process, it was noted that there was a very strong assumption of guilt in the way the process is worded or detailed. There is a bias towards enabling the complainant to complain rather than creating a fair and supportive platform for the fee-paying member to respond to allegations. This relates to various</p>	<p>The timelines are in accordance with those of other regulatory bodies. Having regard to your comment, Council aims to deal with complaints as speedily as possible to ensure that the proverbial "sword hanging over someone's head" is removed as soon as possible.</p>

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			<p>aspects e.g., reporting and response timelines, lack of flexibility in terms of representation, etc.</p> <p>Investigations into professional misconduct is a civil matter and not a criminal matter where the standard of proof is the balance of probabilities.</p> <p>Additionally, the process creates enormous stress and anxiety for the registrees and should thus be carried out with the utmost compassion. Council needs to consider having an agreement with legal aid, university legal clinic or provide as an option to registrees (paid by the individual) a legal aid service which would assist the registrees where such services are required. Similarly counselling services should be provided for vets in conflict with council.</p>	<p>The balance of proof in civil matters, as is the case with investigations and hearings into unprofessional conduct, is on a balance of probabilities, as opposed to beyond reasonable doubt, which is the onus of proof in criminal matters.</p> <p>Matters covered by legal aid.</p> <p>You can apply, although it does not seem that complaints of unprofessional conduct are included in the list of matters for which legal aid may be considered.</p> <ul style="list-style-type: none"> • Criminal offences • Consumer issues (Consumer Protection Act) • Contract law • Debt issues (National Credit Act) • Deceased estates • Equality Court cases (Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000. Do note that personal damages claims that are excluded under the Legal Aid Regulations may not be dealt with as part of an Equality Court action or claim) • Problems accessing payment of benefits

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			<p>It is also worth noting that client complaints are a daily occurrence and typically only 2-3% carry any</p>	<ul style="list-style-type: none"> • Employment claims, such as unfair dismissal or discrimination • Separation, divorce or disputes about children • Actions against the police, such as wrongful arrest • Challenging the decision of a local authority • Housing, such as threatened eviction • Threatened evictions from farms • Mental health, such as legal advice if a person is detained in a mental hospital • Domestic violence • Land rights matters • Any case where a person's rights have been violated <p>Qualifiers for legal aid.</p> <p>Legal aid for individuals</p> <p>If you are employed, you must earn less than R8,200.00 per month after tax has been taken off.</p> <p>Legal aid for households</p> <p>If you live with other people for more than 4 nights per week, and these other people share in the cost of food and other costs, your total household income will be considered. Legal aid will only be considered for households that earn less than R9,000.00 per month after tax.</p> <p>The timelines are in accordance with those of other regulatory bodies. Having regard to</p>

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			<p>merit. Even so convictions are about 0.5% hence it is impractical and improper for council to impose all these undue time constraints to fee paying professionals when there is an overwhelming chance of reaching a conclusion that the claim/complaint was unsubstantiated.</p> <p>Further to this the BVF would like to make the following comments and recommendations:</p> <p>Lodging a complaint</p> <p>1) (Section 1. (1)-(4)) Complaint should be lodged within 3 months, 12 months is too long. Condonation can then be considered in cases where there may be a delay in the manifestation of a condition possibly arising from malpractice. The shortened time period also allows for a better recollection of details, ease of access to possible witnesses (who may move on to other practices) and assists in the prevention of nonsense complaints. If a matter is important the complainant will see to it that matters are addressed timeously.</p> <p>2) (Section 1. (7)) Guidelines on choosing a mediator to prevent biases need to be developed. If possible, the complainant and respondent should be given an opportunity to choose from a panel of mediators. Mutual agreement should be sought, where it cannot be reached the appropriate committee/function and/or the registrar can</p>	<p>your comment, Council aims to deal with complaints as speedily as possible to ensure that the proverbial "sword hanging over someone's head" is removed as soon as possible. As the saying goes, "justice delayed is justice denied".</p> <p>The full Council deliberated this suggestion and resolved to reject it. Firstly, Council has a public duty in terms of the Veterinary and Para-Veterinary Professions Act to deal with complaints. Secondly, the Prescription Act provides that prescription in civil matters only occurs three (3) years after the events which gave rise to the cause of action or three (3) years from the date on which the plaintiff should reasonably have been able to establish that there is indeed a cause of action.</p> <p>A guideline will be developed in due course.</p>

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			<p>select one by round robin and their choice taken as final.</p> <p>Investigative methodology A</p> <p>1) Section 3-4) In a case where the veterinarian is unable to afford the services of the legal practitioner the services of a veterinarian with a legal background/specialist knowledge/relevant experience should be allowed to support the respondent.</p> <p>2) Terms of Reference and composition of the investigations committee should be such that it is representative of all professions and groupings noting the biases that already exist in terms of demographics within the profession.</p> <p>3) (Section 3(2)) Submission of clinical records within 72 hours does not give the practitioner/respondent enough time to gather evidence. This 72hrs could also include weekends and holidays. BVF recommends that this period be increased to 30 days to allow the practitioner (respondent) sufficient time to compile the required information and submit the information together with his/her/their account of events/sworn affidavit. Consideration should also be made for family/social obligations of the respondent. The undue pressure is unwarranted and in our opinion indicative of the assumption of guilt by council at most or mistrust of the integrity of the respondent at the very least.</p> <p>Investigative methodology B</p>	<p>The rules will be amended to include representation by a veterinary professional. That said, however, the veterinarian should consider that he/she may be prejudiced if such a veterinary representative does not have a legal background as well.</p> <p>The IC consists of 5 members, two of whom are persons of colour.</p> <p>The rules provide that clinical records must be capable of immediate retrieval. It is unfortunate that some veterinarians change their clinical records to suit their narrative once a complaint has been filed. If the time allowed is too little, the administration can consider an extension of time within reasonable limits, depending on the circumstances.</p> <p>The proposal was rejected.</p>

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			<p>1) What necessitates an inspection of premises in professional misconduct cases? This may need to be expanded on and the circumstances carefully considered by council. It is recommended that a warrant should be sought, and this carried out only when absolutely necessary in the case of criminal investigations which then should be carried out through the relevant authority. In the past these investigating officers were just administrators from council and the investigations terribly biased and embarrassing.</p> <p>2) The Respondent should be informed when a search of the premises will happen, respondents should be adequately informed of the procedure, how information and materials confiscated may be used. Such investigations must be done without biases as was witnessed in the past where black veterinarians were targeted. This caused a lot of anxiety and stress. It is recommended that Council should compare processes with other veterinary councils on this matter with an understanding of the context.</p> <p>Powers and function of the investigative committee</p> <p>6. Inquiry into professional conduct</p> <p>1) (Section 4(1)-(5)) Three working days may not be enough for the bundle of evidence to be prepared and the action should give the respondent enough time since this needs to be in consultation with the legal personnel.</p>	<p>Section 31 B of the Veterinary and Para-Veterinary Professions Act provides for this situation. The Act requires that a warrant should be obtained from a magistrate in the instance where there is a reasonable apprehension or suspicion that criminal conduct is taking place on the premises. The process can also be used where Council has reasonable ground to suspect that serious unprofessional conduct is being committed.</p> <p>It will defeat the purpose of the inspection/search if the veterinarian is informed, i.e., it is to prevent that person from hiding evidence of wrongdoing, which has unfortunately happened in the past (for instance, medicines registered updated overnight for a period on three years in a rather obvious manner.</p> <p>A reasonable extension of time may be requested, which will be considered having regard to the facts of the matter,</p>

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			<p>2) The council should also make provision to assist registrees with their defence, e.g., the finance to cover the cost of the witness of the respondents. Otherwise, there should be a methodology where the respondent is found not guilty of allegations to recoup part of the costs from the complainant.</p> <p>3) Council should consider the introduction of a statutory obligation for clinicians at the very least to subscribe to a Veterinary Defence Society. In our opinion all vets should be obliged to subscribe.</p> <p>4) There should be flexibility in how evidence is led or provided, and the use of virtual meeting systems needs to be provided for to reduce the costs to the registrees and enable appearance of witnesses who would otherwise not be able to attend an in-person meeting.</p> <p>7. Procedure at the inquiry into professional conduct</p> <p>1) The powers of the registrar need to be balanced or checked by the executive committee of the SAVC thus permission of the executive /council should be sought by the registrar at key points of the process.</p>	<p>Council is obligated by law (the Veterinary and Para-Veterinary Professions Act) to investigate complaints against its registrees. For that reason, costs cannot be recovered from the complainant. The registree will be well advised to ensure he/she has professional indemnity insurance, which includes legal representation. The registree can also appear in person. The truth is a very powerful weapon.</p> <p>Council will overstep its legal boundaries by such a requirement.</p> <p>Provision is already made for virtual attendance by arrangement with the administration. But for the date usage, it is free.</p> <p>The powers of the Registrar are prescribed in the Act itself. In addition, it may create a conflict of interest if any of the councillors are involved in the disciplinary process. The members from the Investigation Committee who are Councillors as well, must recuse themselves if disciplinary matters are taken on review by a complainant to prevent a possible conflict of interest. All Councillors</p>

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			<p>2) See comment 1) under investigative Methodology A</p> <p>8. Accessibility to enquiry into professional conduct.</p> <p>1) See comment 1) under investigative Methodology A</p> <p>2) It is the BVFs recommendation that the proceedings be recorded by council and made available to outside parties with consideration of the relevant laws and regulations</p> <p>3) The BVF recommends that the proceedings not be made public or open to journalists as the negative perceptions created may unfairly disadvantage registrars despite being found not guilty.</p>	<p>are also required to declare formally if he/she has a conflict interest in any matter serving on the Council agenda, including disciplinary matters. The agendas and minutes of the IC meetings are also not made available to Council at all, precisely to avoid a conflict of interest.</p> <p>See the comment above.</p> <p>The rule was amended to read: <i>"No recording devices and/or cell phones are allowed in the room the inquiry is held, except for the official recording made by Council, which will be the only officially accepted recording of the proceedings, provided that the Respondent may formally apply to the Inquiry Body to record the proceedings independently."</i></p>
10.		See comments	<p>So, the 'main' rules *(Doc "1" attached) has not been changed/affected? *[Rules-9-Nov-2015]</p> <p>The reason I asked, is I have the draft 2019 version *(doc "2" attached) and was wondering if this is work in progress? *[Veterinary_Rules-Final_amendments-9_July_2019-Approved_for_circulation]</p>	The veterinarian has been contacted, as the comment was not linked to the disciplinary rules for comment.

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			Ito of Rule 10, it has some significant differences, and I need to know if these should be taught to students or not.	