

RULES OF DISCIPLINARY PROCEDURE OF THE ~~AVMA~~JUDICIAL COUNCIL

The procedures established in these Rules shall govern proceedings conducted by the ~~Judicial Council~~ pursuant to Article VII, Section 25(a) of the Bylaws of the American Veterinary Medical Association concerning membership in the Association. The procedures set forth in these Rules are subordinate to the Bylaws of the AVMA. In the event of any conflict, the provisions of the Bylaws shall prevail.

Section 1 - Definitions - As used herein:

- A. "Association" means the American Veterinary Medical Association (AVMA).
- B. "Members" means the members of the AVMA.
- C. "Secretary" means the AVMA Executive Vice President, or his/her designee.~~Secretary of the Judicial Council, the AVMA staff member who is assigned to provide administrative support to the Judicial Council.~~
- D. "Party" means the complainant or the respondent in a disciplinary proceeding referred to herein.
- E. "Rules" means these Rules of Disciplinary Procedure.~~Judicial Council" or "Council" means the duly elected Judicial Council of the AVMA.~~
- F. "Board" or "Board of Directors" means the AVMA Board of Directors.
- G. "Chair" or "Board Chair" means the Chair of the AVMA Board of Directors.
- H. "Board of Governors" means the AVMA Board of Governors.

Section 2 - Initiation of Proceedings

- A. A complaint against any member may be filed with the Secretary by any person, whether a member or not, any Principal Veterinary Organization or Constituent Allied Veterinary Organization currently represented in the House of Delegates, or the Secretary on behalf of the Association. A Complaint brought on behalf of the Association may only be initiated by ~~the Board of Directors, Board of Governors, or the Executive Vice President.~~
- B. In order to be considered, a Complaint must be filed with the Secretary, in writing, dated and signed by the complainant. It must allege facts which constitute a basis for disciplinary action under any of the criteria set forth in Article II, Section 5 of the Bylaws. Allegations must be set forth with specificity and include adequate evidence to substantiate the allegations, including copies of pertinent documents, ~~and notarized statements from witnesses.~~
- C. A Complaint must be filed within one year after the facts became known to the complainant or could have been known in the exercise of reasonable diligence. After a complaint has been filed with the Secretary, it may be withdrawn by the complainant only with the consent of the Board Chair.
- D. The Secretary shall promptly review every complaint to determine whether to:
 - 1. ~~utilize the criteria established by the Council to refer the matter to the appropriate regulatory agency; AVMA HOD Principal Veterinary Organization (e.g. state veterinary medical association) or state board of veterinary medicine, or~~

2. respond with one of the standard responses previously approved by the Chair, such as requesting additional information; Council; or
- ~~3. place the matter on the agenda for the next Council meeting; or~~
3. consult the Council; refer the matter to the Chair to determine if the complaint meets the criteria in the Bylaws and these Rules; the appropriate course of action (e.g. request additional information);

~~In determining which of the above steps to take, the Secretary may consult with AVMA's General Counsel.~~

E. Upon receipt of a complaint, the Board Chair:

1. may dismiss the complaint if it does not meet the criteria for a complaint set forth in the Bylaws and these Rules; or
2. direct the Secretary to send to the respondent member by certified mail, registered mail, postage pre-paid return receipt requested, or courier to the last recorded address of the member, a copy of the complaint and the evidence submitted with the complaint and advise that the respondent may file a written response with the Secretary within thirty (30) days.

F. The notice to the respondent should include a copy of these Rules, the Principles of Veterinary Medical Ethics (if applicable), and the Bylaws. The notice should also inform the respondent that if the complaint is sustained, in whole or in part, the respondent's membership in the AVMA may be disciplined, up to and including expulsion from the Association. If contested, the response must refute the allegations with specificity and include adequate evidence, including copies of pertinent documents. If the respondent does not file a reply within thirty (30) days, the complaint may be addressed as uncontested. The Chair may accept a late response in his/her sole discretion.

G. The Secretary shall promptly deliver copies of all accepted responses to the complainant and the Chair. The complainant may not submit a reply to the respondent's response without the Chair's permission. Any reply submitted without the Chair's permission may be disregarded.

H. After reviewing the complaint and response (if any), the Board Chair:

1. may dismiss the complaint if the evidence clearly demonstrates that the complaint is not valid or without merit; or
2. convene a hearing panel, consistent with these Rules, to consider the matter and issue a written recommendation to the Board of Directors, including the reasons for the recommendation.

I. Hearing panels shall be selected by a selection committee consisting of the Chair, the Vice Chair of the Board of Directors, and the Chair of the House Advisory Committee. The selection committee shall determine if the hearing panel will have three or five members. All members of the hearing panel shall be members of the Association and at least one member of the hearing panel shall be a delegate or alternate delegate in the Association's House of Delegates.

- J. The hearing panel shall select a date for an in-person meeting to discuss the complaint and response (if any), along with all other materials properly submitted by the parties in accordance with these Rules. All such meetings shall be held at or near the AVMA building in Schaumburg, Illinois. At least thirty (30) days before any such meeting, the respondent member shall be provided with a written notice of the meeting time and place, including the charges the hearing panel will consider. The notice shall inform the respondent member of his/her right to appear in person (or via teleconference or similar electronic means) at the meeting and/or be represented by counsel to present any defense to such charges. The hearing panel may, in its sole discretion, invite the complainant to appear in person (or via teleconference or similar electronic means) at the meeting and/or be represented by counsel to present a summary of the charges. At any such meeting, formal rules of evidence and civil procedure shall not apply, and the hearing panel shall have sole discretion to determine all procedures regarding the meeting, including the presentation of all evidence and witness testimony, if any. The hearing panel's deliberations regarding the complaint shall be confidential and held in executive session. The hearing panel may have legal counsel present to provide advice regarding procedural matters, including during deliberations.
- K. No more than thirty (30) days following the meeting, the hearing panel shall issue its written decision on the complaint, including findings in support of its decision, which may include disciplinary action against the respondent member. The Secretary shall provide a copy of the hearing panel's decision to the parties (by overnight, registered, or certified mail, return receipt requested). The Secretary shall also provide a copy to the Board of Directors.
- L. If the hearing panel's decision includes disciplinary action, the Secretary shall notify the affected member of the procedures for requesting Board of Directors review, including the timeframe for requesting such review.
- M. If no written request for review is received by the Secretary within thirty (30) days after the member receives a copy of the hearing panel's decision, the member shall have waived his or her right to appeal. The Board of Directors may nevertheless decide to review the hearing panel's decision.
- N.—~~Before conducting a hearing, the Council may:~~
- ~~1.—Informally investigate the matter in an attempt to resolve the situation, including contacting any party or witness. Such investigation should only focus on resolving the situation, not on developing facts to support a complaint that otherwise fails to meet the criteria set forth in Section 2.B. above.~~
 - ~~2.—Direct the Secretary to send by certified mail, registered mail, postage pre-paid return receipt requested, or courier to the last recorded address a copy of the complaint and the evidence submitted with the complaint to the party complained against and advise that the respondent may file a written response with the Secretary within thirty (30) days. If contested, the response must refute the allegations with specificity and include adequate evidence, including copies of pertinent documents and notarized statements of witnesses. If the respondent does not file a reply within thirty (30) days, the charges may be addressed as uncontested. The Judicial Council may accept a late response at its discretion. The Secretary shall promptly deliver copies of all accepted responses to the complainant and the Council.~~
 - ~~3.—After a complaint has been filed with the Secretary, it may be withdrawn by the~~

~~complainant only with the consent of the Judicial Council.~~

- ~~0. At its next meeting, the Judicial Council will review the information provided along with any additional available information, including its own investigation.~~
- ~~1. If the Council finds the complaint to be invalid or not to be supported by the evidence presented, the Council may dismiss the complaint or hold it pending further investigation.~~
 - ~~2. If the Council, at its discretion, finds that the evidence before it is sufficient, it may render a preliminary determination, which may include disciplinary action against the member. Where the Council makes a preliminary determination that includes disciplinary action, it will notify the member of its preliminary determination, which will be deemed accepted by the member and become final unless the member notifies the Secretary that the member requests a hearing before the deadline specified in the notice.~~
 - ~~3. The Council may schedule a hearing to acquire additional evidence and information to clarify the issues.~~
 - ~~4. The Secretary will notify all parties of the Council's action.~~

~~Section 3. Hearings.~~

- ~~A. The Judicial Council Chair shall designate the time and place of the hearing, and the Secretary shall notify the complainant and the respondent of the designated time and place. An appearance at a hearing, without objection by a party, will constitute a waiver of any defect in the notice of that hearing. If either party fails to appear at a duly noticed hearing without obtaining a continuance or adjournment thereof, the Judicial Council may proceed with the hearing.~~
- ~~B. At any hearing, every party has the right to present witnesses, to submit evidence pertinent to the case, and to cross-examine any witness. Witnesses who give oral testimony shall be sworn by the chair. Before permitting testimony relating to anyone's character or general reputation, the Judicial Council shall satisfy itself that the testimony has a direct bearing on the case.~~

~~Each party may be represented in person and/or be represented by counsel. The Judicial Council may, at its discretion, have legal counsel present to advise.~~

~~Section 4. Decisions of Judicial Council~~

- ~~A. Disciplinary decisions of the Judicial Council shall be by majority vote; by secret ballot if requested by a majority of the council; and presented in writing that clearly states the findings of fact and any disciplinary action. A failure of secrecy shall not invalidate the decision.~~
- ~~B. If the Judicial Council determines that disciplinary action should not be taken, the matter shall be closed.~~
- ~~C. If the Judicial Council determines that the affected member has engaged in activity in violation of Article II, Section 5 of the Bylaws, the Judicial Council shall recommend to the Board of Directors that disciplinary action be taken against the affected member. Such recommendation shall be in writing and shall set forth the Judicial Council's findings and recommended disciplinary action.~~

- ~~D. The affected member shall be provided with a copy of the Judicial Council's recommendation and shall have the right to have the Board of Directors review the recommendation.~~
- ~~E. The Chair of the Judicial Council shall notify the following individuals of the Judicial Council's recommendation: the affected member (by overnight, registered, or certified mail, return receipt requested), the complaining party, the President of the AVMA, and the Executive Vice President. Further, the Chair shall notify the affected member of the procedures for requesting Board of Directors review.~~
- ~~F. If no written request for review is received by the Secretary within thirty (30) days after the Judicial Council notifies the member of its recommendation and the member's right to a review, the member shall have waived his or her right to appeal. The Board of Directors may nevertheless decide to review the recommendation. If the Board of Directors fails to review the Judicial Council's decision within sixty (60) days, the decision shall be final and implemented.~~

Section 53 - Board of Directors Review

- A. If a request for the Board of Directors review is submitted by the member, or if the Board of Directors decides to review ~~a Judicial Council~~the hearing panel's decision, the Board, in a timely fashion, shall review the findings and ~~recommendations~~decision of the ~~hearing panel~~Judicial Council based only on the evidence upon which the ~~recommendation~~decision was based. New evidence shall not be permitted unless such evidence could not have been discovered with the exercise of reasonable diligence prior to the meeting of the hearing panel.
- B. The affected member shall be given at least thirty (30) days' notice of the time and place of the meeting at which the Board of Directors will consider the ~~request~~decision. The affected member shall have the right to appear before the Board of Directors in person and/or be represented by counsel to present reasons why the ~~Judicial Council~~hearing panel's recommendationdecision should not be ~~accepted~~affirmed. The Board of Directors, in its sole discretion, may invite the complainant to appear at the meeting at which the Board of Directors will consider the hearing panel's decision.
- C. The Board of Directors may have legal counsel present at any such hearing to advise on issues of procedure, ~~and represent AVMA's interests in the disciplinary matter.~~
- D. Upon the conclusion of its review, the Board of Directors shall affirm, overturn, or modify the ~~recommendation of the Judicial Council~~decision of the hearing panel. The action of the Board of Directors shall be final.
- E. The ~~President~~Secretary shall notify the following individuals of the Board of Directors' decision: the affected member (by overnight, registered, or certified mail, return receipt requested), the complaining party, and the hearing panel, ~~the Executive Vice President, and others as appropriate.~~

Section 6 - General Provisions

- A. Any party to a disciplinary proceeding may file with the Secretary a written request for disqualification of a member of the ~~Judicial Council~~hearing panel for cause and stating the grounds for disqualification. Any grounds for disqualification of which the party then has knowledge are deemed to be waived, unless the request is filed before the ~~Judicial Council~~hearing panel renders its decision. If a majority of the members of the ~~Judicial~~

~~Council~~hearing panel finds any valid ground for disqualification, or finds any other facts that may prevent a member of the ~~Judicial Council~~hearing panel from rendering an impartial decision or may create the appearance that the hearing panel member will not do so, that hearing panel member will be disqualified.

- ~~B. The Judicial Council will not be bound by the technical rules of evidence employed in legal proceedings. The Judicial Council, in its sole discretion, may accept or reject any evidence it deems appropriate.~~
- C. In any proceeding, a transcript may be made at the discretion of the ~~Judicial Council~~hearing panel.
- D. Any notice required to be given or paper required to be served may be given or served by certified mail, registered mail, postage pre-paid return receipt requested, or courier to the last recorded address. If mailed, the notice shall be deemed to be served, filed, or given when mailed. ~~Notice of any hearing shall include the names of the members of the Judicial Council and, except for an adjourned hearing, shall be given not less than ten days before the date of the hearing.~~
- E. Communications shall be directed to the Secretary who shall receive, file, and distribute all documents or other papers as appropriate.
- F. The complainant and the respondent will pay their own expenses and those of their legal counsel and witnesses to participate in hearings.

Section 7 - Summary Proceedings

In each instance in which the ~~Judicial Council~~AVMA determines to discipline a member due to having been convicted of a felony by any court of competent jurisdiction, the member shall be notified that he or she shall be expelled from the Association and shall lose all related rights and privileges sixty days after such notification, unless the member demonstrates in writing to the ~~Judicial Council~~Board Chair that there is a genuine issue as to any material fact with respect to whether the member has been determined to be guilty. Absent such demonstration, the member shall have no automatic right to a hearing, notwithstanding any other provision in these rules.

Section 8 - Membership Reinstatement Following Expulsion

AVMA members who are expelled from membership for grounds listed in Article II, Section 5.a.2 or 3 of the AVMA Bylaws, are eligible to reapply for membership after completing all requirements of any criminal sentence, including without limitation any period of parole or probation, or reinstatement of the license to practice veterinary medicine by the appropriate licensing authority, or both as the case may be. In all cases where an expelled member is seeking membership reinstatement, including circumstances where the individual does not seek reinstatement of a license to practice veterinary medicine, the ~~Judicial Council~~Board of Directors will review the application and may conduct any investigation deemed necessary to determine whether reinstatement of membership is appropriate. All decisions of the Board of Directors regarding reinstatement are final. ~~subject to the review and approval of the Board of Directors.~~

Section 9 - Confidentiality

The ~~Judicial Council~~AVMA will maintain as confidential all complaints, investigatory documents, hearing transcripts, notes, discussions, minutes, decisions, and all other disciplinary proceeding materials. Disciplinary decisions of the ~~Council~~AVMA will be provided to the complainant and the respondent, but the ~~Council~~AVMA will encourage both parties to

keep the decision confidential.

Approved January 2019~~8~~

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