



PO Box 1614, Wollongong DC NSW 2500

# COMPLAINTS PROCEDURES

THE AUSTRALIAN REGISTER OF HOMOEOPATHS LIMITED  
A company limited by guarantee not having a share capital

ABN 69 088 314 818

Last revised 24<sup>TH</sup> February, 2013.

# Contents

1. Receipt of Complaint.....	3
2. Notification to Practitioner .....	3
3. Receipt of Practitioner's response .....	4
4. Nature of Complaint.....	5
5. Appointment of Investigator .....	6
6. Disciplinary Tribunal proceedings - Overview .....	6
7. Appeals.....	8
8. The Form and Recording of Findings and Determinations.....	9
9. Costs of Tribunal proceedings and Appeals .....	9
10. Fitness to Practice: .....	9
11. Suspension from Practice.....	10
12. General.....	11
APPENDIX 1 .....	12
RANGE of PENALTIES .....	12
APPENDIX 2 .....	12
PROPOSED REMUNERATION SCHEDULE .....	13
APPENDIX 3 .....	14
Definitions:.....	14

# **RULES REGULATING COMPLAINTS AND DISCIPLINARY PROCEDURES**

## **1. Receipt of Complaint**

(a) Any complaint about the professional conduct of a Registrant who:

- provides homeopathic services; and
- holds a current practising certificate issued by AROH,

may be made to the Registrar of AROH and must be in the form of a Statutory Declaration duly executed by the complainant or the person representing the body making the complaint.

(b) The complaint is to be received and administered by the Registrar of AROH, who will check that AROH has jurisdiction to deal with the matter and that the complaint is in the correct form. If it is not in the appropriate form or if AROH does not have jurisdiction over the practitioner the subject of the complaint, the Registrar will notify the complainant in writing.

(c) The Registrar must refer appropriate matters to the Professional Conduct Committee (PCC) as soon as practicable, to conduct an investigation and determine whether or not to conduct disciplinary proceedings against the practitioner the subject of the complaint.

(d) The Board may also, of its own motion, raise a complaint by referring a matter that has come to the Board's attention concerning the professional conduct of a Registrant to the PCC for investigation and determination.

(e) If the matter complained about is a matter that may come under the jurisdiction of and be investigated by any health complaints entity or other statutory regulatory body in the relevant State or Territory in Australia, the Board must notify that relevant state body and provide a copy of the complaint to the relevant body as soon as possible after its receipt by the Board. Depending on the response by that state regulatory body, AROH may await the outcome of their investigation and determination before proceeding further, or AROH may decide not to investigate the matter further if the health complaints authority or other statutory regulatory body decides to proceed to investigate and determine the matter. The Registrar will write to notify the complainant and practitioner of this outcome.

(f) If the Registrar determines that AROH does not have jurisdiction to deal with the matter, the Registrar in notifying this outcome to the complainant and the practitioner who is the subject of the complaint, may also state in the letter, whether the Board will be referring the matter to another authority with jurisdiction to investigate the allegations contained in the complaint or the Board may refer the complainant to other authorities.

## **2. Notification to Practitioner**

(a) As soon as is practicable, the Registrar, after referring the matter to the PCC and receiving directions from the PCC, will write to the complainant and practitioner(s). The Registrar will write to the practitioner against whom a complaint or matter has arisen to advise:

- full details of the complaint, or provide a copy of the complaint to the practitioner if appropriate; and
- set out provisions of the Code of Professional Conduct (CoPC) and Standards of Practice (SoP) alleged to have been breached; and
- invite submissions in writing from the practitioner to be provided to AROH within 28 days from the date of the practitioner receiving the letter; and

- any disciplinary procedures that are being considered; and
- the practitioner that he/she has the option to admit the allegations contained in the complaint and consent to have the penalty determined by the PCC and the Board who may give consideration to a reduced penalty for an early admission and co-operation, or the practitioner may dispute the allegations in the complaint within the stated time frame.
- that in all cases whether or not the complaint allegations are of a minor nature or not, the PCC and the Board may determine the complaint and impose appropriate penalties if the practitioner responds by **consent in writing** to this procedure.
- that if the practitioner disputes the matter, or does not respond within the stated time frame or at all, the PCC may proceed to determine the complaint if the complaint is of a **minor nature** and impose the appropriate penalty, or where the complaint is not of a minor nature, the PCC must proceed to further investigate the matter and/or hold disciplinary proceedings by referring the matter to a disciplinary tribunal.

(b) Should the practitioner not respond within the stated time frame without providing any reason acceptable to the Registrar, the practitioner will be in breach of these rules. In the event the practitioner fails within a further 28 days to provide to the Registrar any written explanation for this non-compliance, the PCC may proceed to summarily determine the subject matter of the complaint accordingly and recommend the appropriate penalties to be imposed to the Board provided the complaint is of a **minor nature**. The determination of the PCC and the penalty imposed will be communicated in writing to the practitioner and the complainant will also be notified that a summary determination has been made.

(c) Should the practitioner be unable to respond and provide his/her submissions within the stated time frame, the practitioner may apply for an extension of time from the Registrar, by providing a written request setting out the reasons supporting this request within 28 days from receipt of the letter from AROH stated in 2(a) above. The Registrar shall not refuse any reasonable request and may grant up to twenty eight (28) days extension of time at his/her discretion, to allow practitioner compliance, thereby allowing a maximum period of 56 days from the date the notice is deemed to have been given under clause 2 (a).

(d) Where further extensions of time are requested by the practitioner, the Registrar must refer such requests to the PCC for consideration and determination.

(e) If the complaint has been determined summarily against the practitioner (ie. the practitioner had not responded and failed to provide any submissions **and** the complaint allegations are of a **minor nature**), the practitioner may apply to have the determination set aside and the matter reopened to be reconsidered. The practitioner must provide supporting evidence for the practitioner's failure to provide a response and submissions in the first instance and show that the practitioner had good grounds for not doing so. Examples of such good grounds include the practitioner being away overseas or in hospital or not having received the letter from AROH stated in 2(a) above. The application to re-open and supporting evidence must be given in the form of a statutory declaration. The PCC shall consider such application and respond reasonably. If the PCC decides to dismiss the application, the practitioner may appeal to the Board within 28 days of the PCC's refusal to set aside the summary determination. The decision of the Board whether or not to set aside the PCC's decision and re-open the matter shall be final on this issue, with no opportunity to appeal.

### 3. Receipt of Practitioner's response

(a) Upon receipt of the practitioner's response, the Registrar will refer this response to the PCC for further directions.

(b) The PCC will consider all responses and submissions received and supporting evidence and may then do any of the following:

(i) by notice in writing to the practitioner and the complainant, request additional information, witness statements, and further submissions to be provided to the PCC within the time stated in the notice;

(ii) by notice in writing to the parties, inform the parties whether the PCC has determined to take no further action, that the PCC will now determine the matter itself in the case of a minor matter, or that in the case of a serious matter it will proceed to refer the matter for a disciplinary hearing, to be conducted before a disciplinary tribunal which shall determine the matter on the papers, based on all the submissions and evidence received. The PCC will prepare the disciplinary charges and brief of evidence for the tribunal to consider.

(iii) the PCC may appoint an independent investigator to investigate the matter further and obtain further statements, reports from witnesses including any relevant expert witness and/or any further information from relevant sources eg. coroner's court, before the disciplinary hearing takes place.

(iv) the PCC may obtain legal advice from independent legal counsel or solicitor and to assist the PCC in compiling a brief evidence and the charges for the tribunal members to consider.

## **4. Nature of Complaint**

### **(a) Complaints of a Minor Nature**

(i) If a complaint is accepted by the PCC and is considered to be of a minor nature such that any penalty that may apply would be in accordance with the Range of Penalties prescribed herein in Appendix 1 paragraphs (a) to (e) inclusive, the PCC may determine the complaint and the penalty on the written submissions and supporting evidence received from the practitioner and the complainant. All submissions received under clause 2 (a) or clause 3 (b) (i) are to be in the required format and are to be provided within twenty eight (28) days from receipt of the written request for them from the PCC.

(ii) The PCC will review all submissions and determine if the facts of the complaint are proven. If proven, any applicable penalty that may apply will be in accordance with the range of Penalties prescribed herein in Appendix 1, clauses (a) to (e) inclusive. If the complaint is not proven and is dismissed by the PCC, all parties will be so notified in accordance with clause (v) below.

(iii) The practitioner will be liable to pay up to half of all reasonable contingent costs associated with the process, other than AROH's or another party's legal costs. Appendix 2 sets out a non-exhaustive list of items of contingent costs that may usually be incurred to which a practitioner is required to contribute up to a maximum contribution of fifty percent of such costs whatever the outcome. However, consideration will be given to reduce such costs liability in the event of early admission of the charges, to a maximum contribution of no more than thirty five percent of such costs incurred.

(iv) The PCC will notify the Board and the Registrar in writing as to the outcome of any determination, which shall then be entered in a register of complaints that have finalised.

(v) The Registrar will officially advise both parties as to the outcome of the determination including any penalty and costs that will be imposed (if any) within 14 days of the Board approving the penalty recommendations made by the PCC to the Board.

### **(b) Complaints of a Serious Nature**

If the complaint is accepted by the PCC and is of a more **serious** nature, disciplinary proceedings will be held and the matter will be referred to a disciplinary tribunal to determine the matter. If the matter requires further investigation, the PCC may seek the Board's approval for the PCC to appoint an independent investigator to assist the PCC in obtaining further information for preparation of its brief to the tribunal members.

## **5. Appointment of Investigator**

(a) An appropriate investigator must have suitable qualifications and experience, and must provide the Board with his/her estimated costs and time frame for conducting the investigation, obtaining any further information and obtain and prepare statements from witnesses and preparing any report. Before the investigation can proceed, the Board must approve the expenditure.

(b) Once the Board has approved the expenditure, the investigator will be given a specific time frame to complete the investigation.

(c) The investigator will be provided with all relevant documentation and will be instructed by the PCC on the terms of reference for the investigation. The investigator will investigate the complaint accordingly and provide a full report to the PCC within seven (7) days of the completion of his investigation.

(d) All evidence gathered by the investigator must be taken in the form of sworn statements eg. statutory declaration or affidavit and exhibiting relevant supporting material addressing the allegations raised and charges.

## **6. Disciplinary Tribunal proceedings - Overview**

(a) On completion of the investigation stage of the complaint by the PCC, the PCC will determine if the complaint raises important issues of unprofessional conduct, unsatisfactory professional performance, professional misconduct, and/or impairment under the CoPC, SoP and AROH's Constitution, rules of registration that must be referred to a disciplinary tribunal for determination.

Definitions of "unprofessional conduct", "professional misconduct", "unsatisfactory professional performance" and "impairment" are similar (but not identical) to the definitions contained in the Health Practitioner Regulation National Law Act and are set out herein in Appendix 3.

(b) The PCC will prepare the brief to the tribunal consisting of all the submissions it has received, all relevant evidence and the finalised disciplinary charges. A copy of this brief will also be provided to the practitioner.

(c) The Registrar will advise the practitioner in writing that the complaint and disciplinary charges will be referred to the tribunal for determination and the proposed time frame for the tribunal to deliberate and make its determination subject to availability of the tribunal members.

(d) The tribunal will consist of at least two and up to a maximum of three members who are not Board members or members of the PCC.

(e) The tribunal members will be drawn and appointed from an available pool of practising homoeopaths and members of the legal profession of at least 5 years standing as practising homoeopaths and 5 years experience in litigation matters respectively. There must be at least one member who is a practising homoeopath. The tribunal will appoint a Chair between or amongst themselves and the Chair will determine the procedure in consultation with the other member(s).

(f) All disciplinary proceedings before the tribunal will proceed and be determined solely on the submissions and evidence provided to the tribunal by way of written submissions, affidavits and/or statutory declarations save where the tribunal has required or granted the practitioner's request for

oral examinations of witnesses, then the proceedings will include the evidence obtained by oral examinations.

(g) The disciplinary proceedings will be inquisitorial in nature. Normal rules of evidence will not be applied, but the rules of procedural fairness and natural justice will apply. The practitioner will be afforded every opportunity to defend, address and counter the allegations, to present his/her submissions, present evidence from his/her witnesses and cross-examine any other witnesses (including the complainant). As far as possible, these will be done in writing "on the papers" by way of written statements, written questions and answers or interrogatories and written submissions. Tribunal members must act impartially and declare any bias or conflicts of interests. A tribunal member must withdraw from adjudicating the matter if any bias or conflict of interest exists or is reasonably perceived and not waived by the practitioner.

(h) The tribunal must satisfy itself whether a disciplinary charge is proved to their satisfaction on the balance of probabilities, by a unanimous decision of the members appointed to determine the matter where the penalty for a disciplinary charge, if found proved, is de-registration of the practitioner; otherwise the standard of proof to be applied on lesser charges where the penalty of de-registration is not applicable, will be by majority decision on the balance of probabilities.

(i) The tribunal members may inform themselves in any manner they see fit and may submit questions to the PCC that it wishes to be answered by the practitioner or a witness including the complainant.

(j) The tribunal may adjourn the proceedings for up to 28 days to issue a notice of request to the practitioner or to a witness (including the complainant) to attend an oral examination if the tribunal deems appropriate. The issuing of a notice to request attendance at an oral examination shall not constitute a notice compelling a witness or the practitioner to attend to be questioned but the tribunal may take note of any non-compliance with its notice or refusal to attend at an oral examination and give such weight to the non-compliance or refusal as it deems appropriate. The legal privilege against self-incrimination may apply to a person being examined under this procedure. The tribunal may request further submissions from the practitioner and the PCC before making its final determination in respect to the charge and penalty.

(k) If an oral examination of a witness is to be conducted or is reasonably required, the practitioner will also have the opportunity to attend the oral examination and ask questions of the witness. All persons attending at an oral examination as part of the proceedings may be legally represented at their own cost and if he/she/they choose to be legally represented throughout the complaints process and the disciplinary proceedings, he/she/they must bear his/her/their own legal costs irrespective of the outcome. If the practitioner is the party requiring an oral examination of a witness, the practitioner must write to the PCC requesting the PCC to notify the tribunal and the witness to attend, but the request must be reasonable and the practitioner must address why the witness' statement is not sufficient, and why the practitioner does not wish to put the questions that the practitioner wishes to ask the witness in writing, for the witness to respond in writing. Such a request may be made after the practitioner has received the brief for the hearing and should be made before the tribunal has adjudicated and finally determined the matter. The PCC must refer all such requests to the tribunal for the tribunal to decide if a witness should be called to be orally examined.

(l) The tribunal members may adjourn the matter to make their determinations and will then publish their determination and make provisional recommendations as to the appropriate penalty that is to be applied. The PCC will instruct the Registrar to notify the Practitioner within 7 days of the determinations made by the tribunal and the Practitioner will be notified that he/she may make further submissions within 14 days about the penalty including any costs that is proposed to be imposed. The practitioner's submissions regarding appropriate penalties (if any) will be referred to

the tribunal and will be considered as part of mitigation before a final determination as to the appropriate penalty is made.

(m) The tribunal shall provide brief reasons for arriving at its findings and determinations.

## **7. Appeals**

### **(a) Grounds**

Where a practitioner has admitted an allegation in a complaint and consented to the PCC dealing with the matter, or where a summary determination has been made and the practitioner's application to have the summary determination set aside and the case reopened under 2(e) has been refused by the Board, there will be no grounds for appeal.

A practitioner may appeal the decision of the PCC or the disciplinary tribunal by making a written application in the form of a statutory declaration within 28 days of the final determination made, addressing the following grounds:

(i) If the practitioner believes on reasonable grounds that a more than minor error of fact or law or omission was made by the tribunal in reaching its determination, the practitioner should set out what the reasonable grounds are and what error of fact or law or omission was made. The error or omission must be not trivial in nature and the "but for" test will be applied to ascertain the significance of the error or omission ie. whether "but for" the error or omission identified by the practitioner, the tribunal would not have arrived at its conclusions, findings and determinations.

(ii) If the practitioner has fresh evidence that was not available when the matter was before the tribunal which the practitioner could not with reasonable diligence have discovered or obtained previously, and the practitioner must provide sufficient details of the "fresh evidence" and reasons why the practitioner could not with reasonable diligence have discovered this evidence previously.

(b) The appeal application has first to be made to the Board for the Board to grant leave for an appeal. The Board will solely decide if the appeal should be granted on the grounds set out in the appeal application on the papers and provided that the appeal application is in the appropriate form and submitted within the stated time. If the Board agrees by a majority for the appeal to proceed, the Board will refer the matter to the PCC to prepare the brief for the conduct of the appeal before an appeal panel. The practitioner appealing the matter will be provided with a copy of the appeal brief to the appeal panel, but not the material that was previously provided to the practitioner in the first instance proceedings.

(c) The appeal will proceed before two appeal panel members who were not involved in the original determination of the matter and who are not members of the Board or the PCC. One member must be a practising homoeopath and the other member may be drawn from the legal profession as in the case for members of a disciplinary tribunal which determined the matter at first instance. The appeal will proceed as if the original determination has been set aside and the matter is re-considered afresh. In addition to the new appeal submissions and any new evidence received, the panel will also be provided and have access to the same brief of evidence that was available to the first tribunal subject to any submissions to omit any of the evidence from the previous brief that may have been received from the practitioner for the appeal. The appeal will proceed solely on the written submissions and evidence in the form of supporting affidavits and/or statutory declarations.

(d) As with the disciplinary tribunal, the appeal panel will largely determine their own procedure, may ignore the normal rules of evidence but will observe the rules of procedural fairness and natural justice. The process will similarly be inquisitorial in nature. The appeal process concludes with the



determination of the appeal panel. The applicable standard of proof to the charges will be the same as for a disciplinary tribunal.

(e) The appeal panel shall provide brief reasons for its findings and determinations.

## **8. The Form and Recording of Findings and Determinations**

After considering all submissions made to the tribunal/ appeal panel into the professional conduct of a registered practitioner, the tribunal/panel may find that:

- (i) The practitioner has/has not, whether by act or omission, engaged in unprofessional conduct; or
- (ii) The practitioner has/has not, whether by act or omission, engaged in unsatisfactory professional performance; or
- (iii) The practitioner has/has not, whether by act or omission, engaged in professional misconduct;
- (iv) The practitioner is/is not impaired; and
- (v) The practitioner is not a suitable person to be registered by the Company or is not a fit and proper person to practise in the profession.

If the charges are found to be proven, the tribunal/appeal panel will determine the applicable penalty that may apply, by reference to the CoPC and SoP and the Range of Penalties prescribed in Appendix 1. The Registrar will advise both parties in writing of the decision within seven (7) days from the handing down of the determination and shall enter all the findings into the Register of Complaints. –

The Registrar is not required to record reasons for a tribunal's/appeal panel's findings in the Register of Complaints.

## **9. Costs of Tribunal proceedings and Appeals**

- (a) The costs of these processes are significant in relation to AROH's financial resources, and all registrants are required to carry indemnity insurance.
- (b) The costs of Hearings and Appeals will be equally shared by AROH and the accused Practitioner, regardless of the outcome. Each party will also bear its own legal costs, regardless of the outcome.
- (c) The Registrar will advise the practitioner against whom disciplinary proceedings will be commenced with an estimate of half the cost of the total contingent costs to be incurred by AROH, at the same time as the Registrar notifies the practitioner that the complaint is being referred to a tribunal hearing, and the practitioner will be required to make the appropriate arrangements to provide a bond to AROH for that amount within 14 days of the Registrar's advice.

As the Registrar's advice is an estimate, AROH will render an invoice for the actual amount after the event, and payment will be made within 28 days of the invoice being rendered, otherwise AROH will be entitled to forfeit the bond that it holds to pay the invoice.

## **10. Fitness to Practice:**

(a) If the PCC believes the ability of a registered practitioner to practice may be impaired as a result of some form of poor health or other personal incapacity of the practitioner, then the PCC may conduct an investigation into the matter, with or without the appointment of an investigator. The practitioner will be required to consent to undergo a medical examination to be carried out by a mutually acceptable Medical Practitioner, the results of which are to be provided to the PCC and the practitioner within fourteen (14) days of the examination.

(b) Should the practitioner under investigation under this Section:

(i) not agree to undergo a medical examination or not abide by an agreement to undergo a medical examination; or

(ii) not reach an agreement with the PCC within 14 days of receiving notification from the PCC that the practitioner should:

- consent to alter the way in which they practice; or
- agree to the imposition of conditions, limitations or restrictions on their registration; or
- agree to the suspension of their registration for a period of time as may be specified by the PCC,

then the matter will be immediately referred to a disciplinary tribunal.

## **11. Suspension from Practice**

(a) In certain circumstances, the Board may take immediate action to suspend the registration of a practitioner. These circumstances include:

(i) where the practitioner is the subject of a complaint or disciplinary proceedings under these procedures and the matter has not been finally determined, or the practitioner is being investigated or dealt with by another health complaints entity or statutory regulatory body, or that other entity or regulatory body has made an adverse finding against the practitioner; and

(ii) in the opinion of the Board, there would exist a substantial and likely risk to the public should the practitioner be allowed to continue to practice.

(b) If the Board has suspended the registration of a practitioner, it must :

(i) Immediately notify the practitioner of that suspension by registered mail.

(ii) Notify all Homeopathic Associations, ANTA, ATMS and other relevant organisations.

(iii) Ensure that the matter is investigated promptly by the PCC and referred to the disciplinary tribunal for a final determination as soon as possible, subject to (iv) below.

(iv) If an adverse finding has been made by another statutory regulatory body or health complaints entity that the practitioner is not a fit and proper person or not a suitable person to be practising in the health profession including/or in the homoeopathic profession, the Board may impose a suspension for a specified period or cancel the registration of the practitioner on the same grounds without the matter having to be referred to or be heard by a disciplinary tribunal under these procedures.

(c) A registered practitioner who believes that his or her ability to practice is affected may formally request in writing that the Board suspend their registration for a period, or agree to have conditions, limitations or restrictions imposed on their practice.

(d) If the Board and the practitioner agree on the suspension of registration or conditions, limitation or restriction to be imposed, the matter may be dealt with summarily by the PCC. Where agreement is unable to be reached the matter must be referred to the disciplinary tribunal for determination.

(e) The PCC may revoke the suspension of registration, condition, limitation or restriction of a practitioner, if the practitioner is able to satisfy the PCC that his or her ability to practice is no longer affected.

## **12. General**

(a) Any notice given under these procedures by the Registrar shall be presumed to have been received if sent by post, two working days from date of posting, if faxed upon receipt of a facsimile sent confirmation, and if sent by email it shall be presumed received immediately if the Registrar has not received a return email notification of failure of delivery of that email.

(b) All records of determinations made by the PCC and by a disciplinary tribunal and appeal panel are subject to Federal and State Privacy Legislation, subject to AROH's right as notified to the practitioner when the practitioner registered with AROH and the practitioner's deemed consent, for AROH to notify relevant authorities of any adverse findings or complaints relevant to those authorities made against the practitioner.

(c) The receipt of complaints and the outcome of all proceedings will be entered into a Register of Complaints administered by the Registrar.

## **APPENDIX 1**

### **RANGE of PENALTIES**

If after considering all submissions made during the investigation and hearings, it is found that the practitioner has, whether by act or omission engaged in unprofessional conduct, unsatisfactory professional performance, professional misconduct or has an impairment and/or he/she is not a fit and proper person to be practising in the health profession, he/she may be subject to one or more of the following determinations:

- (a) Caution the practitioner;
- (b) Reprimand the practitioner;
- (c) Require the practitioner to undergo counselling;
- (d) Require the practitioner to undertake compulsory professional development courses that are required for certified practitioners or further education of the kind stated in the determination and to complete it within the specified timeframe;
- (e) Require the practitioner to undertake a medical examination by a qualified medical practitioner;
- (f) Impose conditions, limitations or restrictions on the registration or endorsement of registration of the practitioner;
- (g) Suspend the registration of the practitioner for the period of time specified in the determination.
- (h) Cancel the registration (and practising certificate) of a practitioner for a period to be determined.
- (i) Impose order to pay a financial penalty or costs. An order may be made for costs to be assessed by a suitably qualified assessor on the application of a party.

#### Notes:

- i) Failure to comply with any imposed penalty may incur de-registration and subsequent notification to all Homeopathic associations including ATMS, ANTA and other appropriate organisations.
- ii) Generally, the PCC may impose penalties (a) to (e) inclusive on a summary determination (minor matters) or all penalties listed by consent.
- iii) If there is not consent, penalties listed in (f), (g) and (h) may only be imposed by disciplinary tribunal or appeal panel or by the Board in certain circumstances.

## **APPENDIX 2**

### **PROPOSED REMUNERATION SCHEDULE**

[to be reviewed and updated by the Board from time to time]

The following is a schedule of fees applicable when determining complaints into professional conduct issues and will be up-dated and amended subject to market forces prevailing at the time in question.

- 1) Professional Conduct Committee member sitting in summary determination will be reimbursed at the rate of \$30.00 per member per hour, plus outgoings, or at such other rates authorised and approved by the Board.
- 2) Investigators will be reimbursed at the rate of \$50.00 per hour, or at such rates authorised and approved by the Board, provided that Investigators must agree to a maximum fixed charge per case plus outgoings.
- 3) Legal Members sitting on Tribunal or Appeal Panel will be reimbursed at the rate of \$1500 plus GST per day up to a maximum of \$5000 plus GST plus reasonable expenses and disbursements for each matter heard, or at such other rates authorised and approved by the Board.
- 4) A prosecutor representing the PCC at any oral examinations or to make submissions on behalf of the PCC to the disciplinary tribunal held will be paid up to a maximum of \$1500.00 per day plus GST or at such other rates as otherwise approved and authorised by the Board
- 5) Homoeopathic professional tribunal or Appeal Panel members will be reimbursed at the rate of \$150.00 for the first day and \$100.00 for every day or part thereof thereafter, or at such other rates as otherwise approved and authorised by the Board.
- 6) Venue costs eg boardroom in serviced office @ \$25-50.00 per hour to conduct any oral examinations or for the tribunal or appeal members to meet to deliberate, or at other reasonable rates that may be available and chargeable for such services from time to time.
- 7) Travel expenses as incurred to allow attendance at PCC or Tribunal meetings, and /or expenses incurred in the provision of telephone or internet based conferences.

## APPENDIX 3

### Definitions:

**Unprofessional conduct** of an AROH Registrant means professional conduct that is of a lesser standard than that which might reasonably be expected of the practitioner by the public or the practitioner's professional peers, and includes:

- (a) a contravention by the practitioner of applicable laws whether or not the practitioner has been prosecuted for, or convicted of, an offence in relation to the contravention;
- (b) a contravention by the practitioner of :
  - (i) a condition to which the practitioner's registration was subject; or
  - (ii) an undertaking given by the practitioner to the Board
- (c) the conviction of the practitioner for an offence under another Act, the nature of which may affect the practitioner's suitability to continue to practise the profession;
- (d) providing a person with health services of a kind that are excessive, unnecessary or otherwise not reasonably required for the person's well-being;
- (e) influencing, or attempting to influence, the conduct of another registered health practitioner in a way that may compromise patient care;
- (f) accepting a benefit as inducement, consideration or reward for referring another person to a health service provider or recommending another person use or consult with a health service provider;
- (g) offering or giving a person a benefit, consideration or reward in return for the person referring another person to the practitioner or recommending to another person that the person use the health services provided by the practitioner; or
- (h) referring a person to, or recommending that a person use or consult, another health service provider, health service or health product if the practitioner has a pecuniary interest in giving that referral or recommendation, unless the practitioner discloses the nature of this interest to the person before or at the time of giving the referral or making the recommendation.

**Professional misconduct** of an AROH Registrant includes:

- (a) conduct that is substantially below the standard reasonably expected of a Registrant;
- (b) more than one instance of unprofessional conduct; or
- (c) any conduct of the practitioner, that is inconsistent with the practitioner being a fit and proper person to hold registration in the profession.

**Unsatisfactory professional performance** of an AROH Registrant, means the knowledge, skills or judgment possessed, or care exercised by the practitioner in their health professional practice is below the standard reasonably expected of a Registrant.

**Impairment** of an AROH Registrant means the person has a physical or mental impairment, disability, condition or disorder (including substance abuse or dependence) that detrimentally affects or is likely to detrimentally affect the person's capacity to practise in the homoeopathic profession.