

Summary of Discipline Committee Hearing



THE COLLEGE OF
VETERINARIANS
OF ONTARIO

DR. ALAA AZIZ

ALLEGATIONS

- found guilty of an offence relevant to the suitability to practise veterinary medicine
- an act or omission relevant to the practice of veterinary medicine that, having regard to the circumstances, would be regarded by members as disgraceful, dishonourable or unprofessional
- conduct unbecoming a veterinarian
- pleaded guilty and was found guilty of, two counts of simple assault upon two auxiliaries. The member was sentenced to two conditional discharges and two, one-year-periods of probation, both sentences to be served concurrently.
- falsified a record regarding professional services
- provided false or misleading information to the College
- obstructed a College investigation by destroying or suppressing an auxiliary's account of events concerning a kitten and the member's involvement in the case

BRIEF SYNOPSIS OF FACTS

The member practises in a companion animal hospital in Ontario. The College alleged the member engaged in professional misconduct in that he was found guilty of an offence relevant to the suitability to practise veterinary medicine, he obstructed a College investigation and suppressed evidence in a criminal proceeding.

The College's case rested largely on the criminal conviction, as well as evidence of an auxiliary employed by the member. The auxiliary testified she was instructed by the member to write false witness statements that he intended to use in his criminal proceedings.

The auxiliary further testified she was directed to write a letter to the College regarding the Complaints Committee investigation of a matter involving a patient and the member. The auxiliary confirmed the letter was dictated, altered or both by the member. Her evidence was not contradicted and she was a credible witness.

With respect to the criminal convictions, the

panel was provided with evidence establishing that the member was convicted of two counts of assault in 2012. The assaults took place on two auxiliaries employed by the member.

While this matter was originally scheduled for a two to three-day hearing, due to a number of procedural and evidentiary issues raised by the member's legal representatives, the matter took several days to complete. The matter was further delayed when the member changed his legal representation after the panel had issued its decision.

DECISION

1. Finding

The allegation concerning the criminal charges was not contested.

As a result of the criminal convictions, the panel finds the member engaged in professional misconduct in that he was found guilty of an offence relevant to the suitability to practise veterinary medicine. The panel also finds the member engaged in professional misconduct in that members of the profession would find this conduct disgraceful, dishonourable and unprofessional.

The panel finds the member destroyed or otherwise suppressed an account of events prepared by an auxiliary for the purposes of the College's investigation. As such, the panel finds the member engaged in professional misconduct in falsifying a record regarding professional services; providing false or misleading information to the College; an act or omission relevant to the practice of veterinary medicine that, having regard to the circumstances, would be regarded by members as disgraceful, dishonourable or unprofessional in that the member's conduct was dishonourable and unprofessional but not disgraceful; and conduct unbecoming a veterinarian.

The panel finds the member suppressed an account of events prepared by an auxiliary but there was insufficient evidence to support that the member destroyed an account of events. Therefore the panel makes no finding in that regard. As such, the panel finds the member engaged in professional misconduct

in falsifying a record and further engaged in professional misconduct to the extent others would find the conduct was disgraceful, dishonourable and unprofessional.

2. Penalty

- Reprimand
- Suspension of the member's licence for four months.
- Completion of a boundaries and ethics course. If completed within the first 90 days of suspension, one month of the suspension will not need to be served.
- As a condition and limitation on the member's licence, the member is prohibited from being alone with a female client or staff member for one year.

3. Costs/Publication

- The Member shall pay costs to the College in the amount of \$94,430.
- Pursuant to the legislation, publication of this matter will include, among other things, the member's name

PANEL'S REASONING

The panel concluded the member destroyed or otherwise suppressed an account of events prepared by an auxiliary for the purposes of the College's investigation concerning the kitten. Furthermore, the member attempted to mislead the College as to his involvement in the kitten's care. The panel found the auxiliary's testimony to be credible. She was in a position of vulnerability as the member's employee who was afraid she may lose her job should she not do or write as her employer had asked or instructed.

The College's investigator received a letter from the auxiliary during the investigation. It is not clear to the panel whether or if this letter was sent to the College by the member, the auxiliary or any other person associated with the member's clinic at any time prior to its receipt by the investigator. The panel considered whether the member misled the College if he never sent or ordered the

document to be sent to the College. The panel concluded the College proved on a balance of probabilities the member did mislead the College in that he was involved in the preparation of the letter.

The panel made no finding as to whether the member sent the misleading information to the College with the expectation the College would rely upon it.

With respect to the role the member played in directing the auxiliary to revise her statements, the panel has concluded that his conduct amounted to professional misconduct in falsifying a record regarding professional services. The term "record" used in the Regulation broadly includes any document designed or written to memorialize an account or event and this is not limited to merely patient or client records.

The panel finds the member falsified a record and believed it had been faxed to the College. It is the panel's conclusion that the member intended to provide false or misleading information to the College and finds him guilty of professional misconduct.

By falsifying the account and attempting to mislead the College, the member engaged in professional misconduct in that such conduct would reasonably be regarded by members of the profession as dishonourable and unprofessional, and the panel finds the conduct amounts to conduct unbecoming a veterinarian. To be clear, the panel did not find this conduct would be regarded as disgraceful.

The panel finds the member suppressed an account of events prepared by the auxiliary but there was insufficient evidence to support the member destroyed an account of events. The panel finds that the member instructed the auxiliary on what to say in her statement with the intent the statement would be used in his defence against the criminal charges.

The auxiliary was a young employee in her first paid position in a veterinary clinic, a vulnerable position working under the member who was in a position of power and authority as her superior. The panel finds the member directed the auxiliary to write or change significant parts of the account according to what the member dictated. The changes between the handwritten version of the statement versus the typed statement, together with the auxiliary's

testimony support a finding that the member orchestrated the falsification of a record regarding professional services.

Therefore, the panel finds the member engaged in professional misconduct by falsifying a record. While not a medical record of professional services, the panel is satisfied that anything intended to accurately memorialize an account of an event, such as a witness statement, is a "record".

Further, the member engaged in professional misconduct to the extent that members of the profession would find the conduct was disgraceful, dishonourable and unprofessional. Falsifying records is disgraceful and morally repugnant.

In relation to the assault charges, the member argued that cultural differences may have played a role in the conduct, there is no such cultural distinction or ambiguity when it comes to falsifying records. The member ought to have known this conduct is completely unacceptable and falls well below what is expected. The panel also finds the member engaged in conduct unbecoming of a veterinarian.

Finally, the panel finds the member engaged in professional misconduct in that he was found guilty of an offence relevant to the suitability to practise veterinary medicine. The offenses were committed against auxiliaries in his employ during working hours and in the veterinary facility. Contrary to the member's arguments, a conditional discharge does not negate the fact the member was found guilty.

The panel finds the member engaged in professional misconduct in that members of the profession would find this conduct disgraceful, dishonourable and unprofessional. The conduct was disgraceful in that the two counts of assault were assaults on his staff. He shamed the profession by not meeting higher professional expectations and breached the public trust. These counts of assault were not isolated incidents.

The Agreed Statement of Facts filed in the criminal proceedings found that, among other incidents, the member slapped an auxiliary on the buttocks and brushed her breast with animal clippers. There is no doubt that the assaults here would be viewed as dishonourable.

Notwithstanding any cultural differences as was argued, the member ought to have known that assaulting staff is wrong. He was the owner of his clinic since 2007. The assaults were committed in 2009 and 2010 as noted in the Agreed Statement of Facts filed in the criminal proceedings. The member ought to have known what is acceptable or unacceptable in Canada, particularly in a Canadian workplace.

Justice McLeod's comments on sentencing the member support the panel's finding that the member ought to have known what is acceptable behaviour: (the member) "is not a stupid man, he's extremely bright, he's extremely articulate, extremely sensitive, he knew better" .

The panel finds the member acted unprofessionally. A professional is obliged to treat staff with respect, especially as a professional in a position of power. A professional, especially one who employs or engages staff, must also provide a safe workplace. The member's assaults made the workplace unsafe and one that was not free of harassment.

RESULTS OF APPEALS

The member appealed the decision of the panel to the Ontario Superior Court of Justice Divisional Court and also to the Court of Appeal for Ontario.

The Ontario Superior Court of Justice dismissed the appeal and further ordered the member to pay costs to the College in the amount of \$12,500.

The Court of Appeal for Ontario dismissed the motion for leave to appeal and ordered the member to pay costs to the College in the amount of \$1,500.