

# Summary of Discipline Committee Hearing



## DR. SERGIY DARIY

May 30, 2014

### ALLEGATIONS OF PROFESSIONAL MISCONDUCT

- failed to maintain the standard of practice of the profession
- failed to provide within a reasonable time and without cause any certificate or report requested by a client or his/her agent in respect to an examination or treatment performed
- 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
- failed to make or retain proper records
- failed to advise clients or obtain consent for an exploratory laparotomy
- failed to document or advise clients he damaged the dog's prostate during the laparotomy
- failed to advise emergency veterinarian or document that he had seriously damaged the dog's prostate
- failed to notify the clients, prior to or during surgery, that he could not find one of the dog's testicles;
- failed to perform appropriate post-operative tests on the dog
- failed to refer the dog to another veterinarian on a timely basis

### BRIEF SUMMARY

The clients presented their dog to the member for castration surgery. The member could not palpate the right testicle during the pre-surgical examination. He proceeded with an exploratory laparotomy without advising the clients or obtaining consent. During the laparotomy, the member damaged the dog's prostate.

The member advised the client he removed the left testicle but he could not find the right one, even though he went through the stomach muscles to try to find it. The member recommended the dog return in one year for an ultrasound to locate the testicle. The member discharged the dog with pain medication.

A couple days later, the dog would not sit or lie down, and vomited twice. He did not eat and he lost bladder control. He also developed significant swelling on the right side in his chest and leg. The

member examined the dog and told the client the dog had soft tissue inflammation. The member prescribed antibiotics.

The next day, the inflammation was worse and the dog was again taken to the member. When the client picked him up later that day, the member said he removed the fluid and it was normal for the soft tissue to swell. The dog remained asleep and unable to eat. The next morning the dog vomited again and was moaning. He was unable to eat and the swelling returned. The client called the member who said he was unable to manage the case and recommended the dog be taken to an emergency clinic immediately.

The dog was in septic shock when he was admitted at the emergency hospital. The skin around the incision site was also noted to be necrotic. Emergency clinic staff examined the dog and provided an estimate of the costs of surgery.

Despite several requests for a copy of the dog's medical records, the member failed or refused to provide them to the emergency clinic and the clients, thereby delaying and jeopardizing the dog's care and treatment.

The emergency clinic veterinarian put the dog under anesthetic to debride the necrotic skin and explore the abdomen, but the dog died on induction. A post mortem revealed severe skin necrosis, no caudal abdominal wall closure, and severe prostatic damage. It was also noted that both vas deferens had been previously transected, consistent with a previous castration.

Second Referral: The member sent emails to the client who had initiated a complaint against the member. The member offered to settle a Small Claims Court action the client had started against him only if the client agreed to withdraw the complaint and the College took no action against him.

### PLEA AND DECISION

The member pleaded and was found guilty with respect to the allegations. The College and the member had negotiated an Agreed Statement of Facts, including an admission of professional misconduct.

### PENALTY

- Reprimand

- Suspension of the member's licence for four months, two months of which shall be suspended if the member completes mentoring sessions in surgical technique at the mentor's practice, with emphasis on neuter surgery
- Imposing a condition and limitation on the member's licence requiring the member complete mentoring sessions with the mentor observing and reporting on the member's surgical technique, with emphasis on neuter surgery at the member's place of practice
- Imposing a condition and limitation on the member's licence requiring the member complete the ProBE Ethics course
- Requiring the member undergo random medical records review for up to two years
- The member is responsible for all costs relating to the Order, but not charged more than \$1,000 for any single meeting or report that is required by the mentor or the records assessor
- The member will pay costs to the College of \$2,500
- Pursuant to legislation, this matter is published including the member's name

### PANEL'S REASONING

The panel acknowledged the efforts of counsel for the College and the Member in developing the agreement in principle. The member pled guilty to professional misconduct in the areas of canine surgery, medical records, communications and ethics. The panel considered these to be serious concerns with regards to the mandate of the College to protect the public and acknowledged the member had accepted responsibility for these actions, and was willing to accept the consequences of these poor decisions. The panel found the proposed outcome to be reasonable.

### PENALTY AND COSTS DECISION AND REASONS

The panel acknowledged the efforts of counsel for the College and the Member in developing the Penalty based on his specific acts of professional misconduct, such that protection of the public interest is best served. The panel considered that each component of the penalty contributes to remediation and will help the member avoid future actions or omissions in the areas of animal surgery, medical records, communications with clients, and ethics.