

Summary of Discipline Committee Hearing



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Hearing Date: November 6-8, 2012, January 14-15, 2013 and May 6, 2013

APPLICATION FOR REINSTATEMENT OF LICENCE TO PRACTICE

BRIEF SUMMARY

A panel of the Discipline Committee met to consider the application for reinstatement of the member's licence to practice which had been revoked in 1999.

PANEL'S REASONING

The panel used a test for reinstatement which was referred to by the applicant and the College. The components of the test are:

1. *Applicants must show by a long course of conduct that they are persons to be trusted, who are in every way fit to be veterinarians.*

The panel chose to define trust as:

- Trust the applicant will not re-offend
- That members of the public and the profession trust the applicant

The panel concluded the applicant had earned the right to be trusted. The panel interpreted his multiple plans for returning to the workplace as a sign of a changing job market and of someone trying to guess what the College would support.

As the applicant had reoffended in the past and denied those charges, trust placed in the applicant would be limited. Further, the applicant's claim of no criminal charges or investigations since 2003 would need to be proven.

2. *Applicants must show that their conduct is unimpeached and unimpeachable, and this can only be established by evidence of trustworthy persons, especially members of the profession and persons with whom applicants have been associated since revocation.*

The panel chose to define conduct as:

- His conduct as a professional
- His conduct as a member of the public

The panel concluded the applicant's behaviour seemed to contain no blemishes since his 2003 convictions. He was given credit for creating a support system to help him control his behaviour. The panel was concerned there were no support statements from his ex-wife, his family or any former employers but hoped this was because he didn't have a lawyer to advise him on what letters would be appropriate.

The panel noted most of the applicant's grievous behaviour has been directed towards the College, not his colleagues. The panel was disturbed by his failure to follow College

procedures as they stem from legislation the applicant is required to know and is bound to follow. The panel considered whether the applicant's lack of legal counsel could be part of these problems. The panel decided to grant him some leniency but any further breaches of the legislation or disrespectful dealings with the College would carry a heavier penalty.

3. *Applicants must show that a sufficient period of time has elapsed before an application for readmission will be granted.*

Both parties agree the last known offenses occurred in 2003. Following his 1999 convictions, a mutual undertaking was signed stating the applicant would not apply for reinstatement for five years. The applicant reoffended in 2003 displaying a related lapse in behavioral judgment. In the panel's opinion enough time had passed to allow the College to consider an application for reinstatement.

4. *Applicants must show that they have entirely purged their guilt.*

The panel believed the applicant was trying to convince the panel he was a victim of malicious prosecution by the College rather than trying to demonstrate he was worthy of having his licence reinstated.

The *Veterinarians Act* allows the applicant to be represented by legal counsel but does not have a provision to deal with the situation where the applicant cannot afford one. The panel was forced to consider that some of the arguments presented by the applicant may have been misguided attempts at 'playing lawyer' without understanding they were counterproductive to his application. If the applicant's licence was reinstated, the panel would need to ensure the social worker was made aware of these concerns.

5. *Applicants must show by substantial and satisfactory evidence it is extremely unlikely they will misconduct themselves if permitted to resume practice.*

The panel believed it could never guarantee the applicant would not re-offend. If the re-application was successful, the panel thought suggestions made in a 2008 evaluation of the applicant should be incorporated as restrictions. These included decreasing stress, avoiding situations where young females would consistently be present and avoiding working where the applicant did not have the support of another veterinarian. The evaluation suggested the applicant continue therapy and be supervised/mentored by a colleague if returning to practice.

6. Applicants must show they have remained current in veterinary medicine through participating in continuing education since the termination of their licence, or that they have a plan acceptable to the College, that will enable them, prior to readmission, to become sufficiently current in the practice of veterinary medicine to fulfill their responsibilities as veterinarians.

The panel felt the applicant was qualified in toxicology but had reservations about his return to clinical practice. The panel thought 12 years away from practice, a previous finding of professional misconduct due to substandard medicine, and his failure to spend time shadowing a veterinarian, might result in the applicant presenting a risk to the public. His clinical practice skills would need to be evaluated. The applicant had proposed a monitor be put in place.

CONCLUSIONS OF THE PANEL

The panel concluded the applicant had passed the test sufficiently and earned the right to regain his licence.

The panel said it could best protect the public by assisting the applicant to be gainfully employed. The applicant was told any more breaches of the legislation or disrespectful dealings with the College should carry a heavier penalty. Further, the applicant's failure to abide by the conditions should cause the College to alter/revoke his limited licence.

CONDITIONS ON LICENCE

The applicant's licence was reinstated with multiple, complex limitations and conditions, including:

- for the next 10 years, in veterinary clinical practice settings, must not be in the company of a female person under the age of 18 except in the presence of another adult, and must not be in a position of trust or authority over a female person under the age of 18.
- for the next 10 years, shall not work in veterinary clinical practice setting as a sole practitioner.
- for the next 5 years, must not work more than a combined total of 42 hours a week averaged over a three week period.
- for the first seven months of veterinary clinical practice work, must engage a veterinarian to monitor, mentor, assist, and advise on clinical competency, medical records, behaviour with co-workers and clients.