

# Summary of Discipline Committee Hearing



## DR. SHIMMY LIBERMAN

Hearing Date: June 8, 2020

### ALLEGATIONS OF PROFESSIONAL MISCONDUCT

- dispensed drugs without conducting a proper assessment to determine if the drugs were medically necessary or appropriate and without a veterinarian-client-patient relationship
- dispensed a drug for use or resale by clients who were not legally entitled to do so
- dispensed drugs in a manner contrary to the *Veterinarians Act*
- failed to maintain proper records
- failed to cooperate in the College investigation
- an act or omission inconsistent with the Act
- failed to maintain the standard of practice of the profession
- 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

### BRIEF SUMMARY

Over a four-year period, the member purchased unusually large amounts of, among other things, Tamoxifen, Chorulon, Delatestryl, Depo-Testosterone, Ventipulmin, Narketan, Apo-Alpraz, Apo-Diazepam, and Apo-Lorazepam from a drug distributor.

The member routinely dispensed some or all of these drugs at his clients' request, without determining if the drug was medically necessary or appropriate and without a veterinarian-client-patient relationship.

The member dispensed some or all of these drugs when he knew or ought to have known that the drugs he dispensed were for use or resale by clients who were not legally entitled to do so. Further, the drugs were not dispensed to another member or a pharmacist in reasonably limited quantities to address a temporary shortage experienced by that other member or pharmacist.

The member did not keep appropriate records for his practice, including records related to controlled drugs, drug sales and invoices.

The Registrar appointed an investigator to inquire into the member's actions and to ascertain if the member had committed an act of professional misconduct by inappropriately or unlawfully dispensing controlled, targeted and prescription drugs and substances.

The member was interviewed by a College investigator and refused to identify the clients to whom he had dispensed drugs.

### 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
- The member's licence to practice veterinary medicine is revoked
- The member will pay costs to the College of \$5,000

### PANEL'S REASONING

The panel believed the member's conduct, described in the Agreed Statement of Facts, would be regarded by members as disgraceful, dishonourable and unprofessional.

Veterinarians have a professional obligation to maintain appropriate controlled drug logs, and to dispense prescription medications within a veterinarian-client-patient relationship. Disregard of these obligations is considered unprofessional.

Veterinarians act in the best interests of public health. Controlled substances are those which have been identified as having human abuse potential and, as gatekeepers, veterinarians have a role to prevent abuse of these products. Veterinarians are responsible for applying professional judgement in the prescribing, dispensing and sale of prescription medications. Knowingly dispensing a drug for use or resale by clients who were not legally entitled to do so, is a severe failing from professional duty.

The submitted evidence detailed years of large volume orders of medications, including Ventipulmin, anabolic steroids, and controlled sedative agents. The large volume of controlled drugs that passed through the member's practice with no records or ability to identify the end users, jeopardizes public health, as well as the reputation of the profession. The panel considers the member's conduct to be dishonourable and disgraceful, and a serious breach of the standards of practice.

#### *Reasons for penalty and costs decision*

The panel accepts that a joint submission should be accepted unless it would bring the administration of justice into disrepute or otherwise be contrary to the public interest. An agreement on costs should be accepted unless it is clearly unreasonable.

Bearing this in mind, the panel considered

the College's submissions on penalty and costs. Counsel for the College summarized the four general principles relevant to penalty: protection of the public, general deterrence, specific deterrence, and rehabilitation.

The College Counsel submitted similar cases related to inappropriate dispensing of medications. Of note, a 2015 case cites that a member's permanent withdrawal from veterinary practice is an acceptable means to protect the public, and may negate the need for further specific deterrence or rehabilitation. Another case states "the right to dispense controlled drugs, including anabolic steroids and narcotics, is a sacred privilege, a violation of which cannot be tolerated", concluding that the penalty for violating this privilege "must be serious enough to act as a real deterrent for others".

The panel believes the years of aversion demonstrated against professional obligations brings into question the member's suitability to practice. The panel is satisfied that revocation of the member's license is a reasonable penalty with the means to protect the public and act as a general deterrent. The panel accepts the Joint Submission for Penalty as presented.

With respect to costs, the panel agrees \$5,000 is fair and reasonable in the circumstances, having regard to costs awards found in similar cases.