

**IN THE MATTER OF THE *VETERINARIANS ACT*, S.B.C. 2010, c. 15**

**AND**

**IN THE MATTER OF  
THE COLLEGE OF VETERINARIANS OF BRITISH COLUMBIA and a  
hearing before a DISCIPLINE PANEL  
of the COLLEGE DISCIPLINE COMMITTEE**

**AND**

**DR. PAVITAR BAJWA**

**Counsel for the Respondent  
Counsel for the College**

**Clea Parfitt  
Allan Doolittle and  
Oren Adamson**

**Panel Members**

**Keith Bracken, Chair  
Dr. Allan Runnells  
Dr. Teresa Cook**

**Date of Decision**

**April 16, 2025**

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**Final Decision of the Hearing Panel on a Citation**

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[1] The College of Veterinarians of British Columbia (“the College”), alleges that Dr. Bajwa failed to comply with the College bylaws and the College Professional Practice Standard: Companion Animal Medical Records, (“the Medical Records Standard”) and that he failed to comply with the requirement that he cooperate with the investigation that was conducted because of a complaint from a client in August 2019. The College alleges that Dr. Bajwa’s failures constitute professional misconduct under the Veterinarians Act, SBC 2010, c. 15 (the “Act”).

[2] The allegations arise from Dr. Bajwa’s treatment of a two-year-old Maine Coon cat named Reggie. The client brought Reggie to Dr. Bajwa’s clinic because the cat was limping. After X-rays, Dr. Bajwa diagnosed a femoral head fracture of Reggie’s left back leg, and he carried out surgery to remove the femoral head and to smooth the fracture site.

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[3] Reggie was first brought to the clinic on August 1, 2019, and Dr. Bajwa performed surgery. The surgery, known as a femoral head ostectomy, was performed by Dr. Bajwa on August 3, 2019, and Reggie was discharged from the clinic on August 5, 2019.

[4] Reggie was returned to the clinic on August 6, 2019, as his incision required re-suturing. The re-suturing was done that day, and he was returned home the same day.

[5] Reggie was again returned to the clinic on August 11, 2019. His incision was again open, and he was diagnosed with an infection in the wound. A drainage tube was inserted in the wound and the infection was treated with antibiotics. Once again, the incision was re-sutured. He was kept at the clinic until August 20, 2019, when he was discharged home.

[6] On August 22, 2019, Reggie was returned to Dr. Bajwa's clinic for re-suturing and again, his wound had infected, another drainage tube was placed, and the incision was re-sutured by Dr. Bajwa, and he was released home the same day.

[7] He was next seen on September 3, 2019, when Dr. Bajwa said the drainage tube was missing. The wound was treated and re-sutured and Reggie was returned home. Reggie was again re-sutured on September 6, 2019, and given medication for infection and was again returned home.

[8] On September 11, 2019, the incision was again re-sutured, the wound treated for infection. It does not appear that Reggie was returned to the clinic after September 11, 2019.

[9] Reggie was administered Dexmedetomidine as a sedation on several of his visits to Dr. Bajwa's clinic. Dr. Bajwa testified that Reggie weighed 10 kg, and the recorded dose was 1 mg/kg establishing a recorded dose of 1000 mcg/kg, which is 25 times the manufacturer's labelled dose. The manufacturer's labelled use for Dexmedetomidine is 40 mcg/kg as a single sedative. However, in each case the dose was recorded as 1 milligram. Dr. Bajwa acknowledged the record was incorrect but attributes the error to the computer program AVIMARK that he uses in his practice.

[10] The evidence is that Dr. Bajwa used a 40-unit insulin syringe to administer the doses of Dexmedetomidine to Reggie. Each of the 40 units contained 12.5 micrograms of Dexmedetomidine and therefore, as a 10 kg cat, Reggie received 125 micrograms of the drug. Apparently, a lower dose was given because of a tranquilizer given at the same time.

[11] On two occasions, Reggie was administered the medication Revertor. That medication is used to counter the effects of Dexmedetomidine and speed up the recovery of the patient from sedation.

[12] The allegations respecting the failure to keep proper clinical records are that:

- (a) he did not adequately document the dosage of Dexmedetomidine administered to a cat named “Reggie”;
- (b) he did not adequately document the dosage of Revertor administered to Reggie;
- (c) he did not adequately document pain medication and dosage prescribed and dispensed to Reggie’s owner on discharge on August 5, 2019;
- (d) he did not document removal of drains, including those placed on August 11, 2019, or August 27, 2019;
- (e) he did not adequately document discharge instructions given to Reggie’s owner following surgery and re-suturing.

[13] Dr. Bajwa denies the allegations and says that any errors in documenting the dosage of Dexmedetomidine were caused by errors in the computer software he used. He says the dosage of Revertor administered were accurate, but he used a different manner of recording the dosage.

[14] The College also alleges that Dr. Bajwa failed to cooperate with the investigation by failing or refusing to respond to a series of questions put to him in writing by the investigator appointed by the College to investigate the complaint.

### 1. Summary of the College’s Position

[15] The College alleges that registrants of the College have a duty to create and maintain adequate records. It says adequate records are essential to allow the registrant and any subsequent treating veterinarian to properly review and assess previous patient care and to ensure there is a proper record of treatment provided, including medications prescribed and delivered, as well as client communications and instructions.

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[16] The College submits that “A medical record is a legal document that represents the registrant’s thought process, decisions, judgment, and actions, each of which has an impact on patient outcomes.” The College submits the records respecting Dr. Bajwa’s treatment of Reggie do not allow for proper review of Reggie’s care and would not have enabled a subsequent treating veterinarian to provide proper continuity of care. The College argues that Dr. Bajwa thus breached the College’s Bylaws and its published Medical Records Standard.

[17] The College also submits that registrants have a duty to cooperate with the College respecting the investigation of a complaint. It argues that this is an important safeguard of the public in a self-governing profession. The College says that by his conduct, Dr. Bajwa breached his obligation pursuant to s. 52(3) of the Act and the Professional Standard respecting cooperation that is published by the College.

## 2. Summary of Dr. Bajwa’s Position

[18] Dr. Bajwa submits that the allegations respecting his failure to create and maintain proper records should be dismissed. He says that clinical records should be viewed in a practical sense with due recognition of their purpose. He argues that the records were sufficient to inform him and his staff as well as any subsequent veterinarian and said in his evidence that typically a subsequent veterinarian will have the client and the prior veterinarian to consult respecting any uncertainty.

[19] Dr. Bajwa agrees that the dosage of Dexmedetomidine recorded as given to Reggie was inaccurate, but says the error was caused by the software program that he used that showed a dosage of 1 milligram per kilogram rather than the correct dosage. He also argues that the dosage in the record was so high compared to the correct dosage that no subsequent veterinarian would have been confused by the record.

[20] Dr. Bajwa also submits that his records were clear respecting the pain medication Tramadol that was administered to Reggie. He says the client agreed that some pain medication was sent home with Reggie and even absent a note in his medical records the records were sufficient.

[21] He says that his records were clear respecting the removal of a drainage tube that was placed after Reggie was returned to the clinic to have some re-suturing done after his incision

had partially opened. The wound was infected, and the drain was necessary to allow the wound to drain.

[22] In response to the College allegation that there was no record of the removal of the drainage tube, Dr. Bajwa points to the notation “TR” which he says indicates “tube removed” and that the record is complete and accurate.

[23] He also submits that even though his records do not indicate the client was given instructions on discharge, instructions to the client were provided. He says that he has printed instructions prepared that he always provides to clients, and he believes the instructions were provided to the client in Reggie’s case when Reggie went home after surgery.

[24] As to the allegation that he failed to cooperate with the investigation, Dr. Bajwa argues that he provided his notes and records upon request and that X-Rays of Reggie were also provided. He also says that he had a heart attack while the investigation was being conducted and that he has other health issues that interfered with his ability to fully cooperate with the investigation. He also says there was some confusion respecting email addresses that contributed to the problem.

[25] Dr. Bajwa argues further, that the College is estopped, or prevented from proceeding with the allegations respecting his records as the College conducted an inspection of his clinic prior to the citation and the inspection included an inspection of his records. He says the College made no complaint about his records during the inspection and should not be allowed to do so after the inspection was concluded.

[26] Finally, Dr. Bajwa argues that the standard of proof in discipline matters where there is a risk of significant penalties is proof beyond a reasonable doubt rather than proof on a balance of probabilities.

### 3. Discussion

[27] The first issue to consider is the appropriate burden of proof respecting discipline proceedings under the Act. The College submits that the appropriate burden of proof is upon a balance of probabilities. Dr. Bajwa argues that given the serious penalties available under the Act, the standard of proof should be proof beyond a reasonable doubt. For the following reasons we find the appropriate standard of proof is upon a balance of probabilities.

[28] Dr. Bajwa relies upon *R. v. Wigglesworth*, [1987] 2 S.C.R. 541, at 561. In that case, an RCMP officer was charged under the *Royal Canadian Mounted Police Act*, R.S.C. 1985, c. R-10 (“the RCMP Act”) and was convicted of a “major service offence”. He was subsequently also charged with common assault under the Criminal Code on facts that arose from the same incident as the charge under the *RCMP Act*. He challenged the Criminal Code prosecution as constituting “double jeopardy” and argued he could not be convicted of both offences pursuant to s. 11(h) of the *Charter of Rights and Freedoms*.

[29] The Court held the prosecution under the *Criminal Code* was not barred by s. 11(h) of the *Charter*. In doing so, the Court considered whether the discipline proceedings fell within the cases contemplated by the *Charter*. Wilson J. writing for the majority said at pp. 560-561:

In my view, if a particular matter is of a public nature, intended to promote public order and welfare within a public sphere of activity, then that matter is the kind of matter which falls within s. 11. It falls within the section because of the kind of matter it is. This is to be distinguished from private, domestic or disciplinary matters which are regulatory, protective or corrective and which are primarily intended to maintain discipline, professional integrity and professional standards or to regulate conduct within a limited private sphere of activity: see, for example, *Re Law Society of Manitoba and Savino*, *supra*, at p. 292, *Re Malartic Hygrade Gold Mines (Canada) Ltd. and Ontario Securities Commission* (1986), 54 O.R. (2d) 544 (H.C.), at p. 549, and *Re Barry and Alberta Securities Commission*, *supra*, at p. 736, *per* Stevenson J.A.

[30] The Court went on to say that disciplinary offences may, in some circumstances, be within the range of offences requiring proof beyond a reasonable doubt:

This is not to say that if a person is charged with a private, domestic or disciplinary matter which is primarily intended to maintain discipline, integrity or to regulate conduct within a limited private sphere of activity, he or she can never possess the rights guaranteed under s. 11. Some of these matters may well fall within s. 11, not because they are the classic kind of matters intended to fall within the section, but because they involve the imposition of true penal consequences. In my opinion, a true penal consequence which would attract the application of s. 11 is imprisonment or a fine which by its magnitude would appear to be imposed for the purpose of redressing the wrong done to society at large rather than for the maintenance of internal discipline within the limited sphere of activity. In “Annotation to *R. v. Wigglesworth*” (1984), 38 C.R. (3d) 388, at p. 389, Professor Stuart states:

... other *punitive* forms of disciplinary measures, such as fines or imprisonment, are indistinguishable from criminal punishment and should surely fall within the protection of s. 11(h).

I would agree with this comment but with two caveats. First, the possibility of a fine may be fully consonant with the maintenance of discipline and order within a limited private sphere of activity and thus may not attract the application of s. 11. It is my view that if a body or an official has an unlimited power to fine, and if it does not afford the rights enumerated under s. 11, it cannot impose fines designed to redress the harm done to society at large. Instead, it is restricted to the power to impose fines in order to achieve the particular private purpose.

[31] Dr. Bajwa argues that given the high potential fines in this case, the appropriate standard of proof should be consistent with “the highest procedural protections known to our law”, that is, proof beyond a reasonable doubt. However, the clear central object of the discipline proceedings in the Act is the safety of those members of the public who deal with registrants of the College not members of society at large. While there is the possibility of a significant fine that is not the sole determining factor.

[32] There is nothing in the case presented by the College to suggest it is pursuing a broader objective than regulatory integrity. The essential elements of the citation are allegations of improper maintenance of medical records and the failure to cooperate with an investigation. We do not find any broader societal purpose in the proceeding, and we do not consider the potential fine level to be so large as to require proof beyond a reasonable doubt.

[33] The same issue arose in the case of *In the Matter of the Veterinarians Act*, S.B.C. 2019, C. 15, and *In the Matter of The College of Veterinarians of British Columbia and Dr. Javaid Chaudhry*, CVBC File 20-105(b), August 28, 2024. In that case the panel, after considering the issue of the requisite standard of proof, said:

[8] In this case any fine that might be imposed must be paid to the College and would not form part of the government’s general revenue. We find nothing in the regulatory scheme set up under the *Veterinarians Act* to suggest that the true penal consequences could be imposed by a discipline panel.

[9] We find that the burden of proof is on the College to prove the allegations in the Citation on a balance of probabilities. The evidence must be sufficiently clear, convincing and cogent.

[34] Dr. Bajwa acknowledged the *Chaudhry* case in his submissions but argues that decision is not determinative of any other proceeding. He also argues that it should not be followed as the decision did not fully consider the magnitude of any potential fine. We disagree with that submission as the panel clearly did consider the magnitude of the fine.

[35] We also find that while there is no clear, determinative rule that decisions of other panels in proceedings under the Act must or should be followed, such decisions deserve respect. It is our view that decisions in other proceedings under the Act dealing with the same issue should be respected and followed where appropriate. In that way, there will be consistency in the decisions of the panels hearing cases and time and money will not be spent re-litigating the same issues. In the event one of the parties believes the decision is wrong, the case can be reviewed and the issue clarified.

[36] We find that the provisions of the Act respecting this citation do not constitute a “true penal consequence” as that term is used in *R. v. Wigglesworth*. Unlike the RCMP Act, there is no power under the Act to order imprisonment and the purpose of the proceedings is to maintain discipline and to achieve the objects of the Act as set out in s. 3 rather than to redress harm done to society at large.

#### 4. Inadequate Medical Records

[37] The College argues that there are clear deficiencies in Dr. Bajwa’s medical records. The College submits that the records do not allow for an effective review of the care delivered to Reggie and were not sufficient to provide proper continuity of care. The College says that by failing to maintain proper medical records, Dr. Bajwa breached the College Bylaws and its Professional Standards.

[38] The Act states its “Duty and Objects” in s. 3 and clearly emphasizes the protection of the public interest. In s. 3(2)(b) the objects of the Act are stated as “to establish, monitor and enforce standards for the practice of veterinary medicine”.

[39] The Bylaws of the College provide in s. 245(2)(b) that a registrant of the College must:

- (a) create, maintain and keep current a medical record containing medical information for each patient;
- (b) ensure that medical information in the medical record is
  - (i) written in English,



- (ii) accurate, complete, appropriately detailed, comprehensible, and
- (iii) properly organized;
- (c) ensure the author of an entry in a medical record can be identified

[40] The College has also published Standards that deal with the maintenance of medical records. The applicable standard is the Medical Records Standard which was marked as Exhibit 6 at the hearing of the Citation. The Medical Records Standard is stated to be “mandatory”, and it purports to set out the essential elements of a proper record. The introduction provides:

The medical record is the only resource that provides the necessary information to ensure continuity of care, to enable effective collaboration among the veterinary team, and to demonstrate the quality of a veterinarian’s practice. Complete and comprehensive medical records are essential to the health and well-being of every patient.

[41] It is clear from the Bylaws and the Medical Records Standard that the College places considerable importance on the issue of medical records. The specific requirements of proper medical records are set out in section 2 of the Medical Records Standard, including “...All medical and surgical treatments and procedures used, dispensed, prescribed, or performed by or at the direction of the registrant, including the name (brand name if applicable or generic drug name), strength, dose, and quantity of any drugs.”

[42] The College referred to *McInerney v. MacDonald*, [1992] 2 SCR 138 for the principle that failure to comply with a Medical Records Standard in a professional College can constitute professional misconduct. See also: *Law Society of Ontario v. Smith* 2020 ONLSTH 139; *Nathalie Xian Yi Yan v. College of Traditional Chinese Medicine Practitioners and Acupuncturists of Ontario*, 2022 ONSC 5464.

[43] Dr. Bajwa’s medical records state that Reggie was sedated for the surgery to repair his fractured femoral neck on August 3, 2019. The records state that Reggie was sedated using Dexmedetomidine at 1 mg/kg, meaning one milligram per kilogram of body weight. Reggie was a large cat and weighed 10 kg according to Dr. Bajwa. Dr. Nelson, the College’s expert witness, said that the proper dose by intramuscular injection for a cat of Reggie’s weight is 40 mcg/kg (micrograms per kilogram). Thus, a dose of 1 mg/kg is twenty-five times the proper dose.

[44] Dr. Bajwa was aware of the error and testified that the mistake was due to a faulty template in his computer medical record software. He said he had been using the software since 2018

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because of a direction from the College. The same error occurred in Reggie's records each time Dexmedetomidine was administered to Reggie. If Dr. Bajwa noticed the error, he did not make any correction.

[45] His explanation that the error was the fault of the software was not accompanied by any evidence. It is our view that however the error was caused, it should have been noticed and corrected or at least noted in the medical records.

[46] Dr. Bajwa seemed to be of the view that the error was not serious as the recorded dosage was so high that any subsequent veterinarian would recognize it was not accurate. He also said that it is common for any new veterinarian to communicate with the previous veterinarian to discuss the case and to clarify any information that was absent or confusing. He said the new veterinarian would also be able to discuss the matter with the owner of the animal. However, that evidence assumes Dr. Bajwa would be available when and if such a consultation was required.

[47] Dr. Bajwa also testified that he uses a 40-unit insulin syringe to administer doses of Dexmedetomidine so that each mark on the 40-unit syringe contained 0.0125mg or 12.5 micrograms of Dexmedetomidine. In this way a cat like Reggie weighing 10 kg would receive 125 micrograms of the drug. Dr. Bajwa said the dose of Dexmedetomidine could have been entered as, or corrected to, 1 international unit/kg.

[48] The College called Dr. Nelson who was qualified as an expert witness. Dr. Nelson testified that the term "unit" refers to units of insulin or units of penicillin or vitamin units. Medications such as sedatives and anesthesia agents are measured in micrograms or milligrams for dose and in cubic centimeters or milliliters for volume. She testified there is no "unit", or "international unit" used in administering Dexmedetomidine.

[49] In this case, the proper dosage of the drug Dexmedetomidine was not accurately recorded. The error in Reggie's medical record should have been noticed and corrected but it was not. As a result, the medical record for Reggie respecting the administration of Dexmedetomidine on each of the occasions the drug was used is not accurate, complete, properly detailed or comprehensible.

[50] It is also alleged that Dr. Bajwa's records were not properly documented respecting the administration of the drug Revertor. Revertor is a drug used to reverse the effect of

Dexmedetomidine. The volume of Revertor can be less than the volume of Dexmedetomidine if it is desirable to maintain some of the sedative and analgesic properties of Dexmedetomidine for a longer period.

[51] The dosage of Revertor documented on August 22, 2019, and September 6, 2019, was 5 units and 4 units respectively. As already noted, Dr. Nelson testified that the term “unit” is used only for certain medications such as insulin, penicillin or vitamins and each unit applies to that specific medication or vitamin. A unit of insulin is not the same as a unit of Vitamin E or a unit of Penicillin.

[52] Dr. Bajwa said in his evidence that he used “International Units for Dexmedetomidine, Revertor, Pimobendane, Benazepril and Buprenorphine. All those drugs are dosed in milligrams/kilogram or micrograms/kilogram. None of them are labeled in “Units” or International Units”.

[53] As Dr. Nelson said in her report:

The volume of Revertor should be the same as the volume of Dexmedetomidine used in the patient. For instance, if a patient is given 0.4 cc of Dexmedetomidine, the usual dose of Revertor is 0.4 cc. In some situations,  $\frac{1}{2}$  of the dose is used to partially reverse the effects of the Dexmedetomidine to keep the patient calm after a procedure.

An inadequate dose of Revertor can lead to prolonged or deep sedation. In Reggie’s case, because the dose of Dexmedetomidine cannot be accurately determined, the correct dose of Revertor that Reggie should have received likewise cannot be determined by the medical records.

It is clear from Dr. Nelson’s report, which we accept, that the dosage of Dexmedetomidine and Revertor given to Reggie by Dr. Bajwa is not accurately recorded in the medical records and we find that Dr. Bajwa’s medical records respecting the administration of Dexmedetomidine and Revertor are deficient.

[54] It is also alleged in the citation that Dr. Bajwa failed to adequately document pain medication and dosage dispensed to Reggie’s owner upon discharge after surgery on August 5, 2019. The medical record does not list any pain medication dispensed at any time although Reggie’s owner said she was given pain medication upon discharge. Dr. Bajwa testified that Tramadol was given as pain medication although there is no charge for that medication on the

invoice related to Reggie's treatment. Dr. Bajwa said it was likely included in the charge for surgery.

[55] The evidence of Reggie's owner was given in a clear, forthright and unbiased manner. Her evidence was not seriously challenged. We found her evidence to be credible and we accept her evidence. As there is clear evidence that 3 days of pain medication was given to Reggie's owner but no record of it in the medical records, we find that the records are not accurate, complete, appropriately detailed or comprehensible.

[56] Next, it is alleged that Dr. Bajwa failed to document the removal of drains, including those placed on August 11, 2019, and August 27, 2019.

[57] The medical record of August 11, 2019, lists placement of "tube anchored nylon 2 stiches placed TR 5 days". Dr. Bajwa testified that meant "tube removal" in 5 days. The notation "TR" is not the standard notation for tube removal and there is no definition or indication of the meaning in the medical records. Dr. Bajwa testified that any veterinarian would know what it means, and it is also clear from the context of the records.

[58] There is no medical record for August 27, 2019, but there is a photograph taken August 29, 2019, that shows a drain in place. The medical record for August 22, 2019, says "wound debridement done, tube anchored stich up done with nylon 2.0" and "SR 12 days". Assuming that "SR" means suture removal there is no note of a time for drain removal in the medical records. Nor is there a record of the drain not being present or that the wound was examined to be sure the drain was not in the wound under the skin. Dr. Bajwa said that he checked the wound and probed with a hemostat to ensure the drain was not in the wound, but that step is not recorded. Once again, we find that the medical records are not accurate, complete, appropriately detailed or comprehensible.

[59] Finally, it is alleged that Dr. Bajwa failed to adequately document discharge instructions given to Reggie's owner following surgery and re-suturing. The medical record lists no documentation or instructions sent home with Reggie's owner on August 5, 2019. Reggie's owner did not recall any information other than verbal instructions and she said she had to ask for that information.

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[60] Dr. Bajwa testified that it is his policy to deliver written instructions to the owner when a patient is discharged from the clinic. The only note in the record was made August 20, 2019, and it states, “advised owner keep a close eye avoid licking.” In his evidence, Dr. Bajwa maintained that he always issued written instructions to clients upon discharge and that he did so in this case.

[61] The owner testified that she did not receive written instructions, and she kept all the documentation respecting Reggie’s medical records together. She testified she did not receive any written instructions. However, she was aware that Reggie needed to wear his cone and remain quiet, and she was told how to administer his medications and to return to the clinic if there was any negative change in Reggie’s condition. Dr. Bajwa commented in his evidence that the owner “knew as much as a vet” given the number of interactions with the clinic respecting Reggie.

[62] Dr. Bajwa submits that the medical records contain all the pertinent new information and submits it was unnecessary to repeat instructions that had already been given to the owner. He argues that all pertinent information was included in the records and the necessary information was recorded.

[63] Dr. Bajwa also makes several general submissions respecting the medical records. He argues that when assessing the adequacy of the medical records respecting Reggie, the way medical records are used in practice must be considered.

[64] He submits that “It is doubtful detailed records are necessary or helpful to a veterinarian’s own care of a patient.” We disagree with that submission. In a busy veterinary clinic where many patients are treated detailed notes are necessary to inform the treating veterinarian as well as any subsequent veterinarian of what has been done previously, sometimes days or weeks previously. We find that detailed notes are equally important to both the treating veterinarian and any subsequent veterinarian who takes up care of the patient.

[65] Dr. Bajwa also takes issue with the enforceability of the Medical Records Standard, and the more general *Professional Practice Standard: Medical Record Keeping*. The College argues that both standards should be applied in assessing Reggie’s medical records. Dr. Bajwa submits that neither of the standards is a standard imposed under the Act as they have not been passed as bylaws.

[66] Dr. Bajwa submits that the standards have no binding effect and are “aspirational” only. He points out that s. 199 of the College Bylaws states:

“standards of practice” means the standards set out in Divisions 4.3 to 4.7 of this Part, or such other standards as may be approved pursuant to section 2(d) of Part 1;

[67] As Dr. Bajwa points out, there is no section 2(d) in Part 1 of the Bylaws. However, the relevant Practice Standards for Companion Animals and Medical Record Keeping have been published by the College and circulated to all registrants as part of the Legislation, Standards and Policies of the College. The standards are listed on the College website and the heading states:

This College publication describes a mandatory standard of practice. The Veterinarians Act in section 52 provides that a failure to comply with a standard may be investigated. This practice standard should be read together with “Professional Practice Standard: Medical Record Keeping”.

[68] The College points out that the same issue was decided by the panel in *Chaudhry* case in August 2024. In that case the panel stated:

[17] The Respondent says that the “standards, limits and conditions” referred to in s. 61 (1) (b) (ii) must be established by bylaw. It is common ground that the *Medical Recordkeeping Standard* and the *Companion Animal Standard* are not part of the bylaws.

[18] We do not agree with the Respondent on this point. Section 17 is permissive, the council “**may** by bylaw... establish standards...” Sections 5 to 7 of the Act set out 5 matters for which bylaws **must** be made. Sections 8 to 19 set out matters for which bylaws **may** be made.

[19] Section 3 of the *Act* states that in carrying out its objects the college must protect the public interest. One of the objects of the College is to establish, monitor and enforce standards. Under the Act bylaws can only be passed if approved by a simple majority of the registrants. It makes no sense to impose on a regulatory body the duty to protect the public interest and then require it to obtain approval from a majority of registrants, who are entitled to vote in their self-interest, when establishing the standards of practice.

[20] If the Respondent’s position were accepted all standards, limits and conditions would be bylaws. If a standard could only be established by bylaw it then becomes part of a bylaw. Section 61 and other provisions of the Act

contemplate a breach of a bylaw but also a breach of a standard. Section 61 (1) (b) (ii) would be superfluous. If all standards had to be bylaws then there could not be a breach of a standard.

[21] Section 52 also contemplates breach of a bylaw and or noncompliance with a standard. Where different terms are used in legislation they are presumed to have different meanings. Standards are different than bylaws and can be established in a different manner.

[22] Professor Casey, a leading authority on the regulations of professionals in Canada, states the following in his text *The Regulation of Professions in Canada*, at Chapter 5, “The Right of Professional Organizations to Make Rules and Regulations”:

Professions regulate almost every aspect of their members’ professional lives. Although specific rules are sometimes found in the legislation and regulations, more commonly a profession will have a set of non-legislated rules, procedures and codes of conduct.

From the Supreme Court of Canada’s decision in *Green* [*Green v. Law Society of Manitoba*, 2017 SCC 20], the British Columbia Court of Appeal’s decision in *Sobeys West (B.C.)* [*Sobeys West Inc. v. College of Pharmacists of British Columbia*, 2016 BCCA 41, leave to appeal ref’d 2016 CarswellBC 1900, 2016 CarswellBC 1901, [2016] S.C.C.A. No. 116 (S.C.C.)], and the Alberta Court of Appeal’s decision in *Sobeys West (Alta.)* [*Alberta College of Pharmacists v. Sobeys West Inc.*, 2017 ABCA 306] I distill the following principles to be applied in challenges to regulatory instruments such as bylaws, rules, standards, and policies:

Professional regulators are granted considerable latitude in adopting regulatory instruments based on their interpretation of the “public interest” in the context of the enabling statute [*Green v. Law Society of Manitoba*, 2017 SCC 20 at para. 24]. The Courts have long recognized that professional regulators have considerable expertise when it comes to deciding on the policies and procedures that govern the practice of their profession [*ibid* at para. 25].

The “public interest” to be advanced and protected by regulators extends to the maintenance of high ethical standards and professionalism [*Sobeys West Inc. v. College of Pharmacists of British Columbia*, 2016 BCCA 41, leave to appeal ref’d 2016 CarswellBC 1900, 2016 CarswellBC 1901, [2016] S.C.C.A. No. 116 (S.C.C.) at para. 56] Professional regulatory regimes are in place to maintain high standards of ethical conduct, competence and professionalism which is required to protect the public against unsafe and unethical professional services [*College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia v. Chik*, 2019 BCSC 1135].

In the professional regulatory context, the Supreme Court of Canada has reaffirmed the robustness of the principle of jurisdiction by necessary implication. Regulatory authority includes not only powers that are expressly granted by the legislation but also, by implication, all powers that are necessary for the accomplishment of the objects intended to be secured by the statutory regime created by the legislature [*Green v. Law Society of Manitoba*, 2017 SCC 20, at para. 42 quoting from *ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board)*, 2006 SCC 4].

While the purpose, words, and scheme of the particular legislation in question must always be closely examined, the *Green* and the *Sobeys West* decisions generally support an expansive interpretation of a regulator's general authority to establish bylaws, rules, standards and policies that advance the statutory objectives.

[23] We find that the determinations available to us to consider are professional misconduct in relation to Count 1 and in relation to Count 2, breach of Bylaw 255 (2) (b) (ii), and breach of the *Medical Recordkeeping Standard and/or the Companion Animal Standard*.

[69] The panel in *Chaudry* conducted a careful and considered analysis respecting how the College practice standards may be used. The conclusion they reached is that the standards are enforceable and binding upon registrants of the College. We agree with that conclusion.

[70] Even if we are wrong in adopting the *Chaudry* analysis, and if they are not technically enforceable under the Act or Bylaws, they are clearly intended to be followed by registrants of the College. The Bylaws in s. 245 set out the requirements related to the creation and maintenance of medical records, and we find that the standards of practice provide guidance to the interpretation of s. 245 and as such, can, and should be relied upon in assessing the adequacy of medical records for companion animals and medical records generally.

[71] In his evidence Dr. Bajwa acknowledged that he was aware of the standards in August 2019 and that he believed he was following them. Therefore, it is our conclusion that the standards of practice are enforceable upon Dr. Bajwa in this proceeding.

[72] Dr. Bajwa next argues that the College is barred from pursuing the allegations in the citation respecting medical records due to the doctrine of issue estoppel. Essentially, issue estoppel, also known as collateral estoppel, is a legal doctrine that prevents a party from relitigating an issue that has already been decided in a prior court proceeding.



[73] The College referred to *Danyluk v. Ainsworth Technologies*, 2001 SCC 44 at para. 25 where the court set out the test for issue estoppel as being that the same question has been decided in earlier proceedings, that the earlier decision was final, and the parties are the same in both proceedings.

[74] In raising this argument, Dr. Bajwa submits that the College conducted an inspection of Dr. Bajwa's practice. He argues the inspection was focused primarily on concerns about Dr. Bajwa's medical record-keeping. The inspection was conducted in June 2022 and Dr. Bajwa says there was no concern raised at the inspection about Reggie's records and thus, the College should be prevented from raising those concerns in this citation.

[75] As the College points out in its submissions, there is no evidence that Reggie's records were reviewed in the inspection or any other evidence about the inspection. More importantly, a prior inspection is not a prior proceeding as that term is used in *Danyluk*, and the same question was not decided in earlier proceedings. We find that the doctrine of issue estoppel has no applicability in the circumstances of this case, and we reject the argument.

[76] We also adopt the definition of the panel in *Chaudry* where professional misconduct was described as a "marked departure from the standard expected of a competent registrant". See also *Law Society v. Martin*, 2005 LSBC 16, at paragraph 140.

[77] In assessing the medical records of Dr. Bajwa, we rely on the report of the College expert Dr. Nelson. We found Dr. Nelson to be a properly qualified expert able to provide opinion evidence on veterinary medical records and we found her evidence to be clear and reliable. She reviewed the records of Dr. Bajwa respecting Reggie and formed the opinion that:

- (a) The dosage of Dexmedetomidine administered to Reggie on August 1, August 3, August 6, and September 6, 2019, was stated to be 1 mg/kg, or 10 mg for a cat that weighed as much as Reggie. Dr. Nelson said that overdose of 25X would likely result in death or very prolonged anesthesia. The medical records related to the administration of Dexmedetomidine were clearly wrong.
- (b) The dose of Revertor administered on August 22, and September 6, 2019, was recorded as 5 units and 4 units respectively. Dr. Nelson said it cannot be determined from the medical records of Reggie how much Revertor Reggie received.
- (c) Reggie's medical records did not document any pain medication dispensed to Reggie's owner on August 5, 2019, or at any other time. The records show

that Tramadol, a pain medication, was administered to Reggie on August 1, 2, 3, 4, and 11, 2019 while Reggie was at Dr. Bajwa's clinic. There is no documentation of any pain medication from August 6 to August 10 in the medical record. There is no pain medication documented as given to Reggie's owner upon release.

- (d) There is no documentation of the removal of drains that had been placed on August 11 and August 22, 2019, and the records contain no documentation of why the drains were placed. That information is necessary because a drain would only have been placed if there had already been complications because a drain is unusual in the type of surgery performed on Reggie. It is important for a subsequent treating veterinarian to know what those complications were.
- (e) There is no record of any written or verbal instructions given to the owner after Reggie's initial surgery and discharge on August 5, 2019, except the notation "cone given". Dr. Nelson said that in this case where there were complications documentation of the instructions should have been included in the records.

As already noted, we accept the evidence of Dr. Nelson.

[78] On a review of the evidence presented, we find that the medical records prepared by Dr. Bajwa were not adequate in that they were not "accurate, complete or appropriately detailed". We find the errors and omissions respecting Reggie's medical records constitute a marked departure from the standard expected of a competent veterinarian. We therefore find that the allegations respecting the medical records created and maintained by Dr. Bajwa as alleged in paragraph 1(a) to (e) of the citation has been proven. We further find that conduct constitutes professional misconduct.

## 5. Failure to Cooperate with an Investigation

[79] The second allegation in the citation is that Dr. Bajwa failed to cooperate with the investigation by failing to respond to correspondence from the College contrary to s. 207(3) of the College Bylaws. The allegation is that Dr. Bajwa failed to respond to 8 letters from the College between December 2020 and August 2021.

[80] The College says that Dr. Bajwa provided only a brief response to the initial letter from the College dated October 29, 2019. That letter requested Dr. Bajwa to answer several questions set out in the letter. Dr. Bajwa responded on November 21, 2019, by email and enclosed his medical records, X-Rays and very brief responses to the questions in the initial letter from the College.

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[81] On December 2, 2019, Dr. Ben Weinberger, the investigator appointed by the College, sent a letter to Dr. Bajwa and requested answers to 11 questions respecting the treatment of Reggie. No response was received from Dr. Bajwa to that letter. Dr. Weinberger sent another letter to Dr. Bajwa on February 3, 2021, requesting a response to the December 2<sup>nd</sup> letter. In that letter he also referred to a phone call he made to Dr. Bajwa on January 8<sup>th</sup> in which Dr. Weinberger also requested a response. No response providing answers to the questions was received from Dr. Bajwa to either the phone call or the letter.

[82] Dr. Weinberger sent an email to Dr. Bajwa on March 28, 2021. In the email he referred to a telephone conversation with Dr. Bajwa on March 26, 2021. He attached the letter of December 2, 2021, setting out the questions he wanted Dr. Bajwa to answer. Dr. Bajwa did not respond.

[83] Dr. Weinberger sent another email on June 24, 2021. In the email he referred to a conversation that Dr. Bajwa apparently had the same day with the College legal counsel. He also sent a letter, again setting out the 11 questions he wanted answered and requested that Dr. Bajwa respond by July 8, 2021. On July 8, 2021, Dr. Bajwa sent a brief message stating, "We require an extension so we can answer these questions." No further response was received, and the 11 questions were not answered.

[84] On August 19, 2021, legal counsel to the College, Ms. Karlicki, sent another letter to Dr. Bajwa with the list of 11 questions. A copy of the June 24<sup>th</sup> letter was also attached. No response was received.

[85] On April 2, 2022, Ms. Karlicki sent a letter to Dr. Bajwa and attached a memo setting out the details of the original complaint from Reggie's owner, a memorandum respecting the investigation prepared by Dr. Weinberger as well as other material related to the complaint and investigation, including copies of Dr. Bajwa's medical records and correspondence with the complainant.

[86] On April 25, 2022, Dr. Weinberger sent another letter providing Dr. Bajwa with a "final opportunity" to respond to the allegations respecting deficient medical records and his failure to cooperate with the investigation. In the covering email he noted that "this is an urgent and time sensitive matter." On January 9, 2023, Ms. Karlicki wrote to Dr. Bajwa to inform him that the Investigation Committee had directed the Registrar to issue a citation against him.

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[87] The College says that between December 2, 2020, and August 19, 2021, Dr. Bajwa failed to answer the questions put to him by Dr. Weinberger and thereby breached s. 52(3) of the Act.

[88] Dr. Bajwa submits that it was always his intention to respond to the College's questions but did not do so because of "inadvertence" and his "challenging" circumstances, largely related to his health.

[89] In his testimony, Dr. Bajwa said that he believed some of the College email went to his "junk" folder, although he did not specify which emails they were. He said that some emails went to his personal email which is the address he had provided to the College. He subsequently asked the College to send emails to his clinic address. The College did so but also sent a copy to his personal address. The February 3, 2021, letter was sent to his personal address. The March 28, 2021, letter was sent to both addresses.

[90] In his evidence he was uncertain as to whether he read all the emails sent by Dr. Weinberger or if he saw them. He did confirm that he received the initial correspondence sent from the College on October 29, 2019, at his personal email address and he responded to it on November 21, 2019. However, we are satisfied and find as a fact, that all the emails from Dr. Weinberger and the College were received by Dr. Bajwa.

[91] Dr. Bajwa also testified that he experienced some health problems during the period he was not responding to the College correspondence. He said that he had a heart attack on June 15, 2021, and was hospitalized for 3 days. He also was generally in poor health in December 2020. But he was actively practising veterinary medicine in his clinic in March, April and May of 2021 and clearly could have replied to Dr. Weinberger during that time. He did request an extension to reply on July 8, 2021, and it was granted but he still did not respond. We reject his submission that his health issues prevented him from responding to Dr. Weinberger.

[92] He also notes that as the College has templates to remind registrants to respond to correspondence from the College, He argues that because the College has found it necessary to prepare and use standard reminder letters, Dr. Bajwa's failure to respond cannot be out of the ordinary and therefore cannot amount to professional misconduct.

[93] We reject that argument. The fact that the College has templates to remind registrants of their obligation to respond to correspondence from the College does not legitimize a registrant's

failure to cooperate with an investigation. Dr. Bajwa had numerous opportunities to respond to correspondence and to the call made by Dr. Weinberger. He failed to do so. Likewise, the fact that he has other files open with the College and might have been confused about which matter was at issue does not justify his failure to respond.

[94] Next, Dr. Bajwa argues that the College is at partly to blame because it took too long to deal with the matter. He points out that Dr. Weinberger was not appointed as the investigator until November 2020 and thus it took just over 12 months to correspond to Dr. Bajwa after the initial letter in October 2019. He says that made it more difficult to deal with the matter and to properly respond. He did not provide any details about how delay impacted his ability to answer Dr. Weinberger's questions and there is no evidence to support that submission. We do not accept delay as a justification for Dr. Bajwa's failure to respond to correspondence.

[95] Finally, Dr. Bajwa argues that his poor health provides justification for his failure to respond to correspondence from the College. He submits that to the extent that his responses were impeded by his health issues penalizing him for failures attributable to his health amounts to "adverse treatment in relation to a disability" contrary to the *Human Rights Code*."

[96] However, that submission is contrary to the evidence, including the evidence of Dr. Bajwa. He agreed that he could respond to the December 2, 2020, letter and when Dr. Weinberger called him to remind him his response was overdue, he agreed to respond within 2 weeks and said that he did not require Dr. Weinberger to re-send the questions suggesting that he was aware of the questions and had access to them.

[97] Dr. Bajwa was clearly actively practicing in February 2021 but still did not respond to the letter of February 3, 2021. He also testified that he purchased a second animal hospital in November 2020, and he was actively overseeing the renovations. After his 3-day hospitalization for a heart attack, Dr. Bajwa returned to his practice and continued to carry on an active practice. The only extension he requested was the 2-week extension that was granted by Dr. Weinberger.

[98] As the College argues, between December 2, 2020, and August 19, 2021, Dr. Bajwa was given ample time and several opportunities to answer Dr. Weinberger's questions and to cooperate with the investigation, but he did not do so. We agree with the College submissions and find that Dr. Bajwa failed to respond to the College correspondence and thus failed to cooperate with the College investigation.

[99] The College submits that, on these facts, it has proven that Dr. Bajwa failed in his duty to cooperate with the investigation conducted by the College. The obligation to cooperate is clearly set out in s. 52(3) of the Act which states:

(3) A registrant must cooperate with an investigation, including providing information or records requested by the investigation committee.

[100] The College also relies on its *Professional Standard: Registrant Cooperation During Investigations and Accreditations* (“the Cooperation Standard”) which the College says sets out the expectations for registrants during an investigation. The Cooperation Standard stipulates for a reply to a request for information to be provided within the time parameters set out in the College correspondence or with a request for an extension along with supporting reasons for the extension.

[101] The Cooperation Standard is published on the College website and is available to all registrants. The published Standards of the College were found to be enforceable in *College of Veterinarians of British Columbia v. Chaudhry*, August 28, 2024, File 20-105(b), and we agree with the conclusion reached in that case. Even if we are wrong to do so, we find that the Cooperation Standard informs the requirement to cooperate in s. 52(3) of the Act.

[102] The College relies on *Syed (Re)*, APEGBC File No. T16-038 and T16-080 for the principle that complaints be dealt with expeditiously. In that case, the panel said:

It is not in the public interest or the interest of the Association, that the complaints procedure be stifled, because, for whatever reason, a member declines to respond to legitimate regulatory requests or maintains such scant records, that documents cannot be retrieved or examined.

[103] The College also referred to the cases of *Artinian v. College of Physicians and Surgeons of Ontario*, 1990, 40 O.A.C. 51 (DC); *Law Society of Ontario v. Diamond*, 2021 ONCA 255 at para.61; *Law Society of Ontario v. Hamza*, [2024] L.S.D.D. No. 49 at para. 207; *Millar v. College of Physicians and Surgeons of British Columbia*, 1994 CanLII 1010 (BCSC), for the principle that a professional’s failure to cooperate with regulators can constitute a significant departure from acceptable professional standards and result in a finding of professional misconduct.

[104] On the evidence presented in this case, we find that over a period of several months, Dr. Bajwa failed or refused to respond to the questions put to him by Dr. Weinberger. He was given

several opportunities to answer the questions but did not do so. He was cautioned by the College that his failure to respond could result in further action by the College and he still did not respond. The College then notified him that the investigation Committee had authorized a citation that was ultimately issued.

[105] We find that his conduct did not comply with s. 52(3) the Act or the Cooperation Standard. We further find that his conduct was a significant departure from the standard required of a registrant of the College. The College has proved the allegations in paragraph 3 of the Citation. We find that the College has proven that Dr. Bajwa failed to cooperate with the investigation into the complaint respecting Reggie.

## 6. Conclusion

[106] We have concluded that the College has proved the allegations set out in Citation 19-084 and we find Dr. Bajwa has committed professional misconduct respecting the allegations in the citation. We find that he breached the provisions of s. 52(3) of the Act and the applicable Standards of practice published by the College.

[107] Pursuant to s. 61(6)(b)(ii) of the Act, having made an order under s. 61 of the Act, this Panel hereby notifies Dr. Bajwa that he has the right to appeal this decision to the Supreme Court of British Columbia pursuant to s. 64 of the Act. This panel directs the College to publish this decision as provided for in s. 68(1)(a) of the Act.

Dated this 16<sup>th</sup> day of April, 2025.

***Keith Bracken***

Keith Bracken, Chair

***Allan Runnells***

Dr. Allan Runnells

***Teresa Cook***

Dr. Teresa Cook