Citation Authorized: September 28, 2023
Citation Issued: July 8, 2024
CVBC File Number 21-010

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

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**DECISION ON A DISCIPLINE HEARING**

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| Panel | Carol Baird Ellan K.C., Chair<br>Dr. Teresa Cook<br>Dr. Catharine Shankel |
| Counsel for the Respondent | Clea Parfitt |
| Counsel for the College | Allan Doolittle<br>Oren Adamson |
| Date of Decision | September 3, 2025 |

Contents

## A. Overview

[1] The Respondent, Dr. Pavitar Bajwa, is a registrant of the College of Veterinarians of British Columbia ("CVBC"). In this matter, he faces a citation dated November 13, 2024 (the "Citation"), containing numerous allegations of various forms of professional misconduct and non-compliance with CVBC Bylaws and Practice Standards. These may be categorized generally as: 1) failing to obtain a client's informed consent; 2) administering inappropriate anesthesia and sedation to an animal under his care; and 3) deficient record keeping.

[2] The evidentiary portion of the discipline hearing proceeded sporadically over dates in January and February 2025, concluding on February 26, 2025. Some of the evidence proceeded in the absence of the Respondent for reasons previously recorded by the Panel.[1]

[3] Following the conclusion of the hearing, Counsel for the College[2] and the Respondent provided written submissions over a period of months, culminating in the College's Reply filed on June 2, 2025. This is the Panel's decision on the question of liability in respect of the more than 20 substantive allegations contained in the Citation.

[4] Section 298(a) of the CVBC Bylaws requires decisions to be "written in a manner that protects the privacy of third parties and is suitable for public disclosure in full." As a result, the complainant and the animal (patient) will be referred to generically. Two witnesses that testified for the College did so "at an open hearing in an official capacity," and therefore their names are included, as permitted by Bylaw Section 298(d).

## B. Citation

[5] The Citation is lengthy and contains approximately two dozen allegations, with considerable specificity and particulars. It will not be set out in entirety here. As reflected in the headings in the Citation, the allegations may be distilled into three subject areas: (1) failure to obtain or document informed consent in relation to the administering of a general anesthetic to a 14-year-old (geriatric) male Shih-Tzu cross dog ["the Dog"]; (2) administering inappropriate medications or inappropriate dosages or combinations of medications to the Dog; and (3) failure to properly document certain assessments, treatment, medications, dosages, and client communications in relation to the treatment of the Dog. As indicated above, the College alleges

[1] 2025-01-17 Ruling, *CVBC v. Bajwa*, File No. 21-010
[2] The CVBC in its capacity as a party to these proceedings will be referred to as the "College".

that, in some cases, these deficiencies constitute professional misconduct as well as non-compliance with several specific provisions of the CVBC Bylaws and Practice Standards.

## C. Legal Framework

[6] The Citation engages the following provisions of the *Act*, CVBC Bylaws and Standards: Section 61(1) of the *Act*; Sections 204(2), 209(f), 211(5), (6), (7), (9), and 245 of the Bylaws; and *Professional Practice Standard: Medical Record Keeping* ("General Records Standard"); *Professional Practice Standard: Companion Animal Medical Records* ("Companion Animals Standard"); and *Professional Practice Standard: Veterinary Dentistry (Companion Animals)* ("Dentistry Standard"). For the sake of brevity, these provisions will not be set out here. They are all available on the CVBC website under "Legislation, Standards and Policies."[3]

## D. Issues

[7] The onus is on the College to prove breaches of the *Act*, Bylaws or Practice Standards on a balance of probabilities, which requires the Panel to find misconduct or non-compliance to be more probable than not, based on the evidence. In this matter, resolution of the issue of whether the allegations are proven rests on the assessment of the pertinent medical records as well as the evidence of the witnesses.

[8] The three witnesses called by the College were the owner of the Dog, whom we refer to as the "Complainant;" Dr. Kristine Torske, an expert in small animal veterinary practice; and a CVBC employee. The Complainant testified as to her interactions with the Respondent in July of 2019 and Dr. Torske provided opinion evidence regarding expected standards for veterinarians in relation to the Citation subject areas. The CVBC employee verified the documentary evidence and provided information regarding CVBC practices and procedures.

[9] Dr. Bajwa testified in his defence, addressing the allegations by providing explanations and in some cases denials of them. The matter is made more complex by the passage of considerable time since the incidents arose (passing the six-year mark on July 16, 2025); by some ongoing health challenges experienced by the Respondent; and by the several adjournments of the hearing, which resulted in the evidence being interrupted and led over a period of months. Credibility assessments are required in respect of some of the evidence, and

[3] https://www.cvbc.ca/resources/legislation-standards-policies/

are complicated by inevitable memory issues, given the dated nature of the matter and in some respects, the manner in which it arose.

## E. Summary of Evidence

### 1. Medical Records and Documentation

[10] The College filed a Book of Documents that included the records for the Dog from the Respondent's clinic, Surrey Animal Hospital ("SAH"), starting on July 16, 2019, and from the clinic that he had attended prior to seeing Dr. Bajwa, Sullivan Animal Hospital ("Sullivan"). The documents also included an authorization form (the "Consent Form") and correspondence between the Complainant and the College and between the Respondent and the College, in relation to the treatment of the Dog. Certain records that were not included in the College's Book of Documents were filed separately as exhibits. These included an anesthesia record (the "Anesthesia Record"), several internal CVBC documents, some emails, and some additional records pertaining to the Dog from SAH, Sullivan, and another clinic.

### 2. The Complainant

[11] The Complainant testified that she had taken the Dog to Sullivan in July 2019 to get an estimate for dental work but found it too high. They had taken x-rays and told her the Dog had a crushed trachea. Sullivan had suggested two tooth extractions under general anesthesia. The Complainant's daughter suggested SAH, and the Complainant took the Dog to see Dr. Bajwa there on July 16, 2019. He told her that the Dog had a bad heart murmur, "Stage 4," and checked his teeth. The Complainant recalled that Dr. Bajwa had recommended a teeth cleaning without anesthesia, because based on the condition of the Dog's heart he probably would not wake up from a general anesthetic. Dr. Bajwa told her he could clean the Dog's teeth that day without anesthesia, and she agreed. The Complainant's recollection was that Dr. Bajwa was adamant the Dog should not receive a general anesthetic.

[12] The Complainant believed she was told by Dr. Bajwa that an extraction may not be necessary, but that if it was, he would need to sedate the Dog slightly, and that he would call the Complainant before he did that. The Complainant signed the Consent Form that she was provided and left the Dog. She received no call about an extraction and assumed they had just cleaned the Dog's teeth.

[13] The Complainant returned to SAH with the Dog on July 19, 2019 to talk to Dr. Bajwa about Sullivan's trachea diagnosis. She had asked Sullivan for the x-rays they took and

forwarded an email with the x-rays to SAH on July 17, before she went for the follow-up appointment. She recalled that the appointment was at least half an hour, and that she and Dr. Bajwa viewed the Sullivan x-rays on a computer. He told her they showed that the Dog's trachea was not crushed or deteriorating. Dr. Bajwa led her to understand that Sullivan had given her "a grave misdiagnosis," and that the Dog needed heart medication immediately for a cough and fluid in his lungs.

[14] The Complainant filed a complaint about Sullivan on July 20, 2019, the day after the follow-up appointment, because she was very upset after talking to Dr. Bajwa that the Dog could have died if Sullivan had administered a general anesthetic as planned. The evidence disclosed that this complaint was investigated but not pursued by the College.

[15] A couple of years later a CVBC Inspector contacted the Complainant and asked if she had consented to Dr. Bajwa administering general anesthesia to the Dog. She replied, "absolutely not;" that she "100% did not agree. She explained to the Inspector that Dr. Bajwa had told her the Dog would not survive a general anesthetic. She told the Inspector that Dr. Bajwa had recommended the Dog *not* be put under a general, and that was the reason she filed her complaint against Sullivan.

[16] The Inspector advised the Complainant that SAH's record indicated the Dog had been put under general anesthesia, and she was very upset. She observed that the Dog had seemingly come out okay but wondered if maybe the treatment at SAH had weakened his heart more and caused him to die when he did, eight months later. It is important to note here that there is no evidence to support this conjecture.

[17] In cross-examination by Respondent's Counsel, the Complainant agreed that she had no medical training, and her knowledge of general anesthesia procedure came from her own experience. She said her understanding of the risk to the Dog came from what Dr. Bajwa told her, that with his heart murmur and the stage he was at, he would likely not wake up from a general anesthetic. She believed sedation meant that the Dog would remain conscious, and it was less risky than general anesthesia.

[18] The Complainant did not recall what conversations she had about general anesthesia with other vets previously, when she had taken the Dog to be neutered or for other procedures, some years prior. She understood there were fewer concerns then because he was younger. She confirmed from medical records that the Dog had been diagnosed in December 2017 with a

grade 2-3 systolic murmur, and that the vet at Sullivan had diagnosed “severe periodontal” issues, recommending two extractions under general anesthesia. That vet ordered x-rays and bloodwork and diagnosed a collapsing trachea. The Complainant believed he went over the x-rays and bloodwork with her. She confirmed that the Sullivan records indicated that as of July 13, 2019, the Dog was fine for anesthesia, and she believed they had discussed it. She had this information before she went to SAH on July 16. The Respondent agreed that she had gone to SAH without an appointment and her main reason for going there was because her daughter suggested it would be less expensive.

[19] The Complainant did not recall any discussions at SAH about the other two animals she and her daughter had taken in, noting that she was upset after Dr. Bajwa told her the Dog might not have woken up if Sullivan had given him a general anesthetic. As she recalled, she took the Dog in on July 16, 2019 because he was shaking and to get a quote for dental cleaning. Dr. Bajwa did a physical examination and found the heart murmur, which she believed he said was Stage 4. He also examined the Dog’s teeth and said it was not as bad as she had been told, he only needed a cleaning, which could be done without general anesthesia or sedation, and he did not need an extraction. The Complainant noted that the Dog was docile and easy to work on and had in the past had dental cleanings without anesthesia or sedation.

[20] Respondent’s Counsel suggested that Dr. Bajwa had recommended bloodwork and x-rays for the Dog on July 16, 2019 because he may have needed to have a general anesthetic, and the Complainant said no, she did not understand the bloodwork and x-rays to have anything to do with anesthetic, that she had declined them because she had just paid for it at Sullivan and Dr. Bajwa could get their results. She was adamant, and repeated twice, that “general anesthesia was never on the table” with Dr. Bajwa. She understood he was going to review the Sullivan x-rays and bloodwork to diagnose the trachea or the cough. She repeated that Dr. Bajwa said he was just going to clean the Dog’s teeth, that he might need sedation if there was an extraction, and they would call her if that was the case, which they did not do.

[21] The Complainant agreed that she told Dr. Bajwa that the Sullivan vet said the Dog could have a general anesthetic, and that the Sullivan records indicated the lab results had been conveyed to her by phone on July 16[4]. She did not know if that was based on the bloodwork and x-rays[5]. She repeated that the Respondent said the Dog would not survive a general

[4] The Sullivan records indicate this was conveyed by telephone at 5:49 p.m., Exhibit 8, p. 177/211
[5] The Sullivan note reads, “Explained blood test result: Unremarkable: Ok for anesthesia and dental work”

anesthetic. She identified the Consent Form and indicated that the handwriting at the bottom with the date and phone number was not hers. She agreed she had signed the form and may not have read every word. She agreed that the form indicated the doctor had described and explained the risks, including that anesthesia had a risk of death. There was a reference to Sullivan on the form in handwriting which was not hers. The form indicated that bloodwork and x-rays were done there. She disagreed that she had consented to extractions if needed and reiterated that they were going to call her if they found an extraction was needed and they had to do sedation. She agreed that the form had the box ticked for “dental extraction if needed” but said she did not know when that may have been done, and that Dr. Bajwa had verbally agreed to call her.

[22] Respondent’s Counsel suggested that the Complainant’s prior experience would have led her to understand that if an extraction was required the Dog would need general anesthesia, and she denied that, reiterating that Dr. Bajwa said he could do it without that. She confirmed that the Dog had not had an extraction before. She denied that she would have wanted the Dog to undergo a general anesthetic to spare him from the pain of an extraction, saying she would have declined the extraction if it was going to cause him to die.

[23] The Complainant confirmed from the records that Dr. Bajwa had not prescribed heart medication on July 16, 2019, because he did not have the x-rays or bloodwork yet. She agreed that the Dog was fine when she picked him up and did not dispute that Dr. Bajwa may have given him an antibiotic injection for his gum disease.

[24] The Complainant identified her email to SAH on July 17, 2019, attaching the Sullivan records, and a second email that day in which she asked about picking up heart medication for the Dog. She received a reply the next day saying to come in.

[25] The Complainant said she did not remember a lot about the visit on July 19, 2019. After viewing the records, she thought perhaps it was her other dog that she brought in that day. The two dogs were half-brothers, but the other one was older and larger. She did not believe she would have had to take the Dog in to discuss the x-rays and bloodwork. She recalled looking at a computer with those on it. She denied showing them to the Respondent on her phone, as she was not that technologically proficient. She agreed that as a result of the conversation on the 19th, the Respondent gave her prescriptions for benazepril and furosemide. She believed the

remainder of the record and invoice from that date related to the other dog. She recalled that her daughter was also there, with her dog, and that she (the Complainant) paid the full invoice.

[26] The Complainant confirmed that she filed a complaint against Sullivan the next day, based on what Dr. Bajwa told her, and that she was happy with his care at that point. The records reflected that she returned to SAH with the Dog on July 24, 2019 because his legs were shaking and the Respondent did a physical examination. She did not remember Dr. Bajwa dealing with an anal wound on the 19th, although she agreed that the records from July 24 indicated that it was healing well. She continued taking the Dog to SAH until May 2020, when he passed away, and took her other animals there until 2022.

[27] The Complainant understood that no fault was found in relation to the complaint against Sullivan. She was shocked and upset when she got the call from the Inspector in April 2023, asking if the Dog had been given a general anesthetic in July 2019. In that conversation the Inspector had referred to a "tooth cleaning with sedation," and the Complainant had not corrected her. She confirmed her current understanding that Dr. Bajwa would only use sedation if he had to do a tooth extraction**.** The Complainant acknowledged that in her letter to the College dated July 20, 2019, she stated that Surrey did the Dog's dental work on July 16 "with sedation," and that the letter contained complaints against two clinics, Sullivan, and another named Albatross[6], that treated the Dog prior to Dr. Bajwa.

[28] On reviewing the medical records from July 16 and 19, 2019 again in cross-examination, the Complainant agreed that it appeared the Dog had been there on both occasions, because the heart murmur was noted. She denied that the anal treatment must have related to the Dog, as her daughter was present with her dog, as well. She denied that she had misunderstood the information she received about general anesthesia on the first occasion. She remained adamant that the Respondent was never going to do a general anesthetic and was to call her if sedation was required at all, for an extraction.

### 3. Dr. Kristine Torske

[29] Dr. Torske is a veterinarian from Winnipeg, Manitoba, with Doctor of Veterinary Medicine and Veterinary Science degrees, whom the Panel accepted as an expert witness in relation to small animal veterinarian medicine. She has considerable academic and practice experience in

[6] It appears from the materials that the complaint against Albatross was also ultimately dismissed.

anesthesia and analgesics but was not tendered as an expert in anesthesiology. Her opinion letter, provided in response to a written request from the College, was filed at the hearing. She had reviewed the BC Bylaws and Practice Standards provided on the CVBC website and compared them with those in Manitoba. In her letter, Dr. Torske provided opinions on six areas, which are summarized here.

**a. Informed Consent**

[30] The CVBC Standards require that a registrant obtain informed consent from a pet owner before administering anesthesia, which Dr. Torske said for a procedure requiring general anesthesia would include explaining the process, the treatment plan, the risks and benefits, and the difference between anesthesia and sedation. In the expert's view, informed consent to anesthesia may be reflected on a consent form with the pertinent box checked, or a record of a conversation with the owner. To her observation, the Respondent's medical records pertaining to the Dog did not reflect either of those.

**b. Administration of Anesthesia and Sedation**

[31] The Dog was 14 years old and weighed 14 pounds at the time Dr. Bajwa treated him. Dr. Torske classified him as geriatric and noted that he had a grade 3/6 systolic heart murmur. Dr. Bajwa's records indicated that the Dog received acepromazine and Dexdomitor (dexmedetomidine), both of which, Dr. Torske said, "are generally reserved for use in young, healthy patients." She expressed the opinion that these medications were inappropriate in this case, either separately or together, as there are much safer premedication agents that can be used in such a patient. In addition, her view was that the dosages administered, particularly in combination, were excessive.

[32] Dr. Torske expressed the view that generally a premedication agent is followed by an induction agent. To her observation, the Respondent's records did not reflect the latter, indicating to her that the Dog may have been sedated by the other drugs that were administered, or "masked down," either of which would have been, in her view, "substandard anesthetic practice."

[33] In her letter, Dr. Torske noted that it was critical to monitor a geriatric patient with heart disease for breathing, heart rate, and temperature and to have fluids administered while under anesthesia, and she found nothing in the records to indicate that this occurred. However, as

discussed below, under cross-examination, Dr. Torske agreed she had not been provided with the Anesthesia Record that was later produced by the Respondent.

**c. Medical Records**

[34] Dr. Torske noted the following deficiencies in Dr. Bajwa's medical records for the Dog: a) She had learned that the Dog received an injection of 20mg of furosemide on July 16, 2019, but that was not noted in the records. Neither the injection nor the reasons for administering it, nor the Dog's response to it, were recorded. b) The dosage of Dexdomitor was inaccurately recorded, preventing a subsequent veterinarian from knowing the dose or the Dog's response to it. c) While the records reflect that the Complainant declined radiographs, there is no notation of a discussion of the importance of them in assessing dental disease prior to treatment. d) If Dr. Bajwa reviewed radiographs from a prior veterinarian, that is not recorded in his notes, nor is any indication of what he learned from them, which would be crucial in assessing the Dog's eligibility for general anesthesia, sedatives, and the treatment plan. e) The medical record reflects a plan to treat the Dog under sedation for an anal wound on another occasion but does not reflect the owner's consent to sedation or any sedatives being administered. f) The medical record reflects the presence of tartar/gingivitis on July 19, 2019, which appears inaccurate given that the Dog had a dental cleaning three days prior. g) The records pertaining to the dental work performed on July 16, 2019, contain no dental charting or notes of findings or treatment.

**d. Cross-Examination**

[35] In cross-examination by Respondent's Counsel, Dr. Torske confirmed her view that bloodwork and radiographs were important in an animal with an underlying condition; and that the owner in this case did not appear to have been advised of the risks of general anesthesia versus sedation, given that the consent form did not indicate that general anesthesia was being contemplated. She agreed that the consent form authorized dental extractions, which would generally be performed under anesthesia, but her view was that owners were not expected to understand that.

[36] Dr. Torske agreed she had not seen the Anesthesia Record before providing her opinion but said it did not change her testimony. She noted that the Anesthesia Record did not contain a lot of the information she would have expected, such as induction drugs, dosages, trachea tubes, and fluids. She considered this information to be a fundamental part of a medical record, necessary to enable continuity of care. Many of these items that were missing from the

Anesthesia Record were also not included in the other part of the Dog's records, such as how much Dexdomitor the animal received, how he was induced, whether he was masked, or had a catheter or fluid during the surgery. The notation that the anesthesia went smoothly did not assist in striving for wellbeing as opposed to survival.

[37] Dr. Torske confirmed her view that it was inappropriate to use two sedatives as the Respondent had done. The protocol would be balanced analgesia and induction agents. She agreed that the consent form suggested the plan was to do the dental work under sedation. She questioned how well that would work, as the procedure could be painful and provoke reactions, and higher stress, in a sedated animal. The aim would be to minimize stress in a compromised animal. Administering enough Dexdomitor to achieve the desired level of sedation would risk cardiovascular effects, including a reduction in heart rate, although she acknowledged that did not occur in this case.

[38] Respondent's Counsel suggested to Dr. Torske that the effects of Dexdomitor could be reversed by a drug called Revertor and that other forms of sedation did not have a similar antidote. Dr. Torske agreed with that, and agreed as well that if the Respondent were using a U 40 syringe for the Dexdomitor the measurement might be accurate if the Respondent's calculations were known. Her view, however, was that that would not be an appropriate way to measure it, as that type of syringe is specifically used for insulin and the protocol was to use milligrams or micrograms to measure and record the actual dose. Even if the Respondent used half of the dose he recorded, it would have been 2.5 micrograms, which in Dr. Torske's view was too high for a geriatric patient with heart disease. She confirmed her view that the dose of acepromazine administered was too high for this animal. The combination of the two for sedation instead of anesthesia was not appropriate as there were better combinations of medications that could be used. Although this animal survived, that was a low bar, and the procedure followed could have led to significant problems.

[39] It was suggested to Dr. Torske, and she agreed, that some of her opinion, notably that regarding the reasons for prescribing furosemide, and the need to review radiographs, turned on the timing of Dr. Bajwa's receipt of medical records from the Dog's prior veterinarian, but she observed that if the Respondent did not receive the other veterinarian's radiographs before the dental work was done, he should have delayed it to get them.

[40] Dr. Torske did not agree that the record reflected no complications arising from the procedure, because the furosemide injection may have been related to those. She agreed that the record reflected that radiographs were declined, but her view was that it was not clear if those were dental or chest radiographs, or whether the risks of performing the dental work without radiographs had been discussed. An appropriate notation would have been to the effect of, “despite being warned of the risks, the owner declined radiographs.” She saw no notation indicating the Respondent had reviewed any radiographs, or, if so, what he learned from them.

[41] It was suggested to Dr. Torske that because furosemide was generally used for hypertension, the fact of the prescription would have conveyed the reasoning behind it. She disagreed with that and observed that there was no record of pulmonary edema or the extent of it, to justify the prescription.

[42] Respondent’s Counsel pointed out to Dr. Torske that the owner had consented to sedation to treat the anal wound and she observed that there was no record either of sedation having been administered or that it was determined it was not required. She said the notation of tartar and gingivitis three days after the dental work suggested to her there may have been no dental examination on that occasion. She agreed that information may have been entered accidentally, but it would be the Respondent’s responsibility to review the records and ensure that they were correct. Dr. Torske disagreed that a dental chart was not required for a clean and polish. In her view things like pockets, loose teeth, and missing teeth should all be recorded so that the next veterinarian can know when they arose. The lack of a notation was not in her view sufficient to convey the absence of those observations.

#### 4. Darcie Light

[43] Ms. Light served as Investigation Coordinator at the College from January 2019, until becoming Senior Paralegal in July 2022. She received a law degree from UBC in 1997.

[44] Ms. Light ‘s evidence in chief was limited to providing a brief description of the investigative process and record keeping systems of the College, from the receipt of a complaint to the completion of an investigation; and identifying the documents tendered by the College in the proceeding.

[45] In cross-examination, Ms. Light confirmed that there was some delay in the Respondent being asked for his medical records for the Dog, which she said was typical. She indicated that

a request for records from a third-party veterinarian would not normally be made when the initial request was made to the subject registrant for his records.

[46] Ms. Light identified an Action Log pertaining to the Respondent's file, setting out the steps taken and the timing of them. It reflected that the Respondent was asked on May 1, 2020 for the medical records he had received from Sullivan pertaining to the Dog. Ms. Light confirmed that a standard request for pertinent invoices was made at the outset and agreed that one of the invoices on the file pertaining to the Dog was in a different name than the Complainant's.

[47] Ms. Light confirmed that the Respondent was not the subject of investigation at the time the initial inquiries for records were made, and that once the investigation against him was commenced, it took a year to have an Inspector assigned, due to backlog issues. She also confirmed that the Respondent was not advised until five months after the Investigative Committee decided to commence an investigation that he was the subject of an investigation pertaining to the Dog, again due to backlog. She agreed that the file was assigned to an Inspector in March 2022, and the Respondent was sent a letter asking him a significant number of questions about the treatment of the Animal in May 2022, and that this was almost three years after the treatment was provided. Finally, she confirmed that an Inspector on another matter spoke to the Complainant in relation to this matter in April 2023 and obtained an invoice in the Complainant's partner's name.

**5. Pavitar Singh Bajwa**

[48] The Respondent testified that he used Dragon Speak to dictate notes for his medical records, and it sometimes missed things and made spelling mistakes. His assistant would make the records from his notes, usually after the procedure.

[49] In relation to his treatment of the Dog, he stated that he first met the Complainant on July 16, 2019, when she brought the Dog in because it was shaking and needed dental work. She told him her prior vet was at Sullivan. He did a physical examination, looking at the Dog's mouth, gums, teeth, eyes, ears; and performing palpation and auscultation of his chest and heart, muscular system and skin. He detected a grade 3/6 heart murmur and noted that the Dog's dental tartar was 6/9.

[50] Dr. Bajwa identified his medical notes from July 16, 2019, which start with the weight of the animal and end with the notation, "nothing clinically significant found." He said he recommended to the Complainant that he take bloodwork and x-rays of the chest and dental

area, and she told him that Sullivan had done them on July 13, 2019. Dr. Bajwa said he planned to do a dental procedure. He considered this important because bacteria grow under plaque, and gingivitis can damage the mitral valve, as well as cause additional heart and kidney problems. In Dr. Bajwa's view, an old dog with a heart murmur needed to have a clean mouth.

[51] It was Dr. Bajwa's opinion that the Dog was suffering from a heart murmur and not a leaky heart valve, based on the sound he heard. He and the Complainant had a long discussion about the dental work, with him explaining how the Dog's heart could be affected by a dirty mouth, as well as the need for sedation and anesthesia, and the related risks; in particular, that an old animal with a heart murmur is at high risk.

[52] The Complainant did not want Dr. Bajwa to do blood work or x-rays; she wanted to wait for the Sullivan results, he said. He wanted to see the x-rays to check the shape of the heart and the trachea, and the blood tests to check the liver and kidney for infection. He thought that Sullivan may have done dental x-rays, but learned that they did not. It was Dr. Bajwa's recollection that the Complainant showed him the Sullivan x-rays on her phone, but he said it was hard to remember, this many years later. He recalled standing at the dental table with her on his right side, and seeing from the x-rays on her phone that the heart was a little bigger, but the trachea was clear. He said the Complainant consented to dental work, and he added:

> I told her sedation, and if I need to do the anesthesia, then –if I need to extract any teeth, I will call her. That was the routine of the clinic, especially the dental work...[7]

[53] Dr. Bajwa identified the Consent Form that the Complainant signed, with his notations on it. He said all of the writing on the form was his except the name of the animal and the date, which were probably done by reception, and the owner's signature at the bottom. Dr. Bajwa said he had been given the form for clients' authorization by a College inspector in June 2018, when he started his electronic records system. Dr. Bajwa had made the notation, "Sullivan" in relation to blood work and x-rays, meaning that he understood they had been done there on July 13, 2019.

[54] On the form, the check next to dental cleaning and dental extraction meant to Dr. Bajwa that the Complainant had provided authorization for those items, if needed. He stated that dental extractions cannot be done without anesthesia. The form contained a check mark for sedation but not anesthesia, indicating that "in the beginning," he was limited to sedation

[7] 2025February10 CVBC Dr. Pavitar Bajwa hearing 21-010, p. 914, ll. 1 - 4

because the Dog was old and had a heart murmur. That meant, to Dr. Bajwa, that he had told the Complainant that sedation would be sufficient but that anesthesia "will be needed if any problem or extraction."[8] Dr. Bajwa went on to say he had told the Complainant that he had done many surgeries on animals with heart murmurs at the Grade 3/6 level when other clinics had declined, as he knew how much anesthesia to use, and there was an antidote available to reverse the anesthesia if needed. In relation to the risks of sedation and anesthesia, Dr. Bajwa said he told the Complainant that there was a risk in very young animals and old animals, especially with a heart murmur, the risk was there, that, "…your dog can be dead on the table." He said he showed the Complainant paragraph 2 on the Consent Form which is the client's acknowledgement that the doctor or staff member "has described the procedure(s) identified and has explained to my satisfaction the purpose for performing them and risks involved with them… I have been advised that in the event that the treatment requires the use of anesthesia/sedation, that there is a risk, even the risk of death."[9]

[55] Dr. Bajwa did not recall that the owner had any questions about that paragraph or the form before she signed it, and he considered her satisfied. He recalled that he had not prescribed the medications he had noted on the form that day, because he had not adequately viewed the x-rays.

[56] Dr. Bajwa proceeded with the dental cleaning for the Dog that day. The routine was for an animal to go home the same day, but he did not recall if that was the plan for the Dog. In the course of the dental procedure Dr. Bajwa used acepromazine and Dexdomitor. He used acepromazine because the dose of Dexdomitor for this patient was "even less than half", and in combination, the acepromazine would help produce the sedation phase. This phase is where the animal is not moving, and not moving its jaw, so he would be able to do the teeth cleaning. He said Dexdomitor lasts for 15 minutes. Other available sedatives such as propofol only last a few minutes and might need to be readministered. There is an antidote for Dexdomitor, Revertor, which neutralizes the effect of Dexdomitor and revives the animal in a few seconds. Dr. Bajwa said there are no similar antidotes for other sedatives. He chose this medication because the Dog was old and had a heart murmur.

[57] Dr. Bajwa used his "clinic standard" syringe, a 40-unit insulin syringe, and gave the Dog 6.25 micrograms per kilogram of weight, which was half of the prescribed dose, due to the age

[8] 2025February10 CVBC Dr. Pavitar Bajwa hearing 21-010, pp. 916-917
[9] Exhibit 8, supra.

and condition of the Dog. It was Dr. Bajwa's understanding from his training that the type of anesthesia was the choice of the practitioner in the field. He also used half the recommended dosage of acepromazine, .05 milligrams per kg, which was in the middle of the recommended dose of .02 to 1 milligram. He obtained the standard dosages from the Veterinarian Information Network ("VIN"), an online resource for veterinarians, which the Panel notes was referred to and listed as a reference in the expert report.

[58] Using these sedatives, Dr. Bajwa found that he was not able to do the dental cleaning because the dog was not sedated, he was moving. He decided to move from sedation to anesthesia, and intubated the Dog, using a monitoring machine in order to be very careful. It was the routine for the clinic to call the owner, and he said he did not know if it was he or a staff member who called, but "a call was made."[10] The purpose of the call was to inform the owner what was happening and what he would be doing next. He would have placed another call if he needed to extract teeth, but he did not.

[59] The dog was placed on IV fluids as per the routine, and monitored by a system that checks Sp02 (oxygen percentage), heartrate, respiration, and ECG. He also used a breathing or apnea monitor. Dr. Bajwa removed tartar and cleaned under the gums, where he found gingivitis and infection. The Dog's recovery from the anesthesia was smooth, as reflected in the Anesthesia Record. After the procedure the Dog was provided an injection of Convenia, a long-acting antibiotic, to address the infection. The Complainant picked him up and was invoiced for the Dog as well as another dog she owned, and a third animal, which all received dental work at the same time.

[60] The Dog was back for an appointment on July 19, 2019, with an anal abscess that Dr. Bajwa flushed without sedation. He gave an injection and provided some medications to go home. He did not use sedation on this occasion, because of the use of anesthesia on July 16. He agreed that the medical records for July 19 included an entry stating, "tartar/gingivitis," which he described as "a template problem." He confirmed that the tartar had been removed on the prior visit, only gingivitis was present, and it was healing. Dr. Bajwa had recommended sedation for the wound treatment, and obtained consent for that. He believed he had given the Dog some Antirobe, an injection of Duplocillin, and benazepril, that day. He was not sure when he had reviewed the Sullivan records, and he did not recall having reviewed them in his office on his

[10] 2025February10 CVBC Dr. Pavitar Bajwa hearing 21-010, p. 926, Q1113.

computer with the Complainant, as described by her. The Respondent saw the Dog again on July 24, 2019 and multiple times after that.

[61] During his evidence in chief the Respondent identified a part of the medical record for the Dog from July 19, 2019, that had not been included in the College's documents. The Respondent explained that it had been filed under a different owner name, similarly to the invoice from July 16, 2019. The Panel understands that he had disclosed it to the College shortly prior to the hearing. It was marked as Exhibit 19 and contained the following notations::

> Examined and explained the Xray done by Sullivan animal hospital
> Given Furosemide 40 mg BID for 30 days
> Ultrasound and radiologist viewed advised to the owner
> FURO02 Furosemide 40 mm 30
>
> Give ½ tablet orally 2 times a day for 30 days.

[62] Dr. Bajwa agreed that the notation in his records for the Dog of a Dexdomitor dosage of 1 milligram per kilogram of weight was an error. He said it was obviously wrong because that dosage would kill the Dog. It was a template problem, and he had showed a College Inspector the vial he used in relation to another matter in which the same error arose.

[63] Dr. Bajwa's testimony was adjourned after his direct examination, which completed on February 10, 2025. Due to reported problems with his health he did not attend the remainder of the hearing dates set for the week of February 10 and the matter was reset for February 26 to finish his testimony. The Panel provided a direction, in light of the history of the matter, that if the Respondent failed to attend on that occasion, he would need to show cause why he should not be suspended from practice until the evidence concluded.

[64] Dr. Bajwa attended on February 26, 2025, but his Counsel noted that she protested the direction, and Dr. Bajwa indicated that due to a dental procedure he was on a prescribed opioid painkiller which might affect his testimony. There was discussion about how best to proceed, and ultimately the Respondent elected not to apply for an adjournment. The Panel indicated that in light of his medication he could ask for breaks whenever he needed them.

[65] The College proceeded with cross-examination. The Panel will observe here that, to its observation, during cross-examination, the Respondent was able to comprehend the proceedings and the questions he was asked. He provided answers that appeared responsive and did not appear to reflect cognitive deficits. The Panel did not perceive a qualitative

difference from his testimony on prior occasions. He was provided regular breaks and did not seek to stand down apart from those.

[66] In questioning by College Counsel, Dr. Bajwa confirmed he was aware of the standards on the CVBC website and had access to those. He acknowledged that he had received a request from the College Inspector for records in relation to the Complainant, in 2020, and that some of the records had not been produced by him until much later. He was unable to recall the timing of receipt of the records from Sullivan, or when he had provided various items to the Inspector.

[67] Dr. Bajwa agreed that an email from Sullivan accompanying the x-rays and bloodwork for the Dog indicated they had been sent to Surrey Animal Hospital by 7:20 p.m. on July 17, 2019. He acknowledged that in an email June 9, 2020, he had told the Inspector he had "no previous records," which was incorrect. He indicated that he had been very ill at that time. He also agreed that when the invoices for the Dog were initially provided, the one for July 16, 2019 was missing. He confirmed that the receptionist would generally provide those, and it had been issued in the daughter's name, so was not located until later.

[68] Dr. Bajwa acknowledged correspondence from the Inspector seeking answers to questions and following up on them but said he was unable in his current medical condition, or given his condition at the time, to recall much about those communications. He confirmed that he had sedated the Dog and put him under general anesthesia on July 16, 2019 and acknowledged that there was no specific charge for either on the invoice. He believed that the anesthesia charge was included in the "canine dental" fee, but acknowledged that for another of the dogs who received dental treatment that day, it specified "canine dental with sedation," and there was also an entry for sedation in relation to a cat. The failure to specify sedation for the Dog would have been a "front desk problem," he said, the Complainant did not ask about the fee, and the fee was the same, $140, for both dogs. In addition, anesthesia was mentioned in the medical record.

[69] In relation to the box on the consent form for "anesthesia" not being ticked, Dr. Bajwa said it was "up to the clinician" what to do, if needed, that sedation and anesthesia are very "close" and if the owner has authorized sedation, it depended on the clinical findings whether he could move to anesthesia, which he considered safer than greater sedation, as it would leave

the body sooner. He took issue with the College pursuing the issue of authorization in these circumstances.

[70] Dr. Bajwa did not recall whether he told the Complainant that sometimes a doctor can go from sedation to anesthesia, which was the answer he provided to the Inspector in June 2021 as to why the form did not indicate consent for general anesthesia. He said it was "routine practice," for him to tell clients that. It was hard for him to recall given the time and the fact that he was not at his best while testifying. It was routine practice to call a client when an extraction is needed, and if they say no, he doesn't do it. He calls and explains before sedation or general anesthetic. In the examination room he would clarify with them as it depends on how the dog is behaving under sedation. He had no specific recollection of what he told the Complainant.

[71] Dr. Bajwa agreed he had told the Inspector that it was the doctor's choice to use any sedation, in response to a question about administering the medications he used, for a senior dog. He disagreed that Dexdomitor should not be administered to a senior dog, saying it was a very reliable anesthetic if one was careful about dosage, because of the availability of an antidote. He disagreed that propofol, Alfaxan or Narketan would be more appropriate as they did not have an antidote, and Alfaxan causes apnea.

[72] Dr. Bajwa agreed that the records for the Dog did not document the furosemide injection, which was a clerical mistake, a little thing that had been overlooked. It was one in a long list of medications that had been prescribed and could be overlooked, in a busy practice, even if the notes were reviewed.

[73] Additional correspondence with the Inspector was put to Dr. Bajwa and he agreed it disclosed that he had provided some late responses, but could not now recall, in his present state, with the effect of his medications, the reasons for that.

[74] On May 4, 2022, the Inspector had asked Dr. Bajwa a series of questions pertaining to the Dog's treatment. The first was under the heading, "For July 16, 2019:" and it asked Dr. Bajwa's interpretation of the Dog's heart or tracheal issues from the medical records and x-rays taken at Sullivan. Dr. Bajwa responded to the Inspector that he had requested but not received the records from Sullivan. In answer to a second question as to whether he had reviewed the records before or after he did the dental procedure, he said "Records not received."

[75] Dr. Bajwa agreed in cross-examination that there was an email from Sullivan on July 17, 2019 in which the Sullivan records were delivered to the Complainant, and that he had testified to seeing them on the Complainant's phone. He did not recall when he looked at them on her phone, but he believed that was on July 16, as he did not have the Sullivan records at that time.

[76] He confirmed in cross-examination that he had relied on what he saw on the phone to advise the Complainant about the trachea, as she had been concerned that it was collapsed and he did not see that. He would not have told the Inspector, based on that, that he had received the records.

[77] Dr. Bajwa agreed that the medical chart that he produced[11] from the Dog's July 19, 2019 visit indicated that he had examined the Sullivan x-rays and explained them. He did not currently recall that, and did not include this information in answer to the first question [which the Panel notes is prefaced "For July 16:"] because he had not received them by that date. In the fourth question, the Inspector asked him what his concerns were about general anesthetic, and he answered that the owner was concerned for dental treatment, so dental treatment was done according to owner choice. In cross-examination, he added that he had explained to her that dental disease could further damage the Dog's heart and lungs, so she agreed to the dental treatment.

[78] The fifth question asked by the Inspector was why he had moved from sedation to general anesthetic. He confirmed that his answer was, "Dog was not sedated well and still moving alot." The sixth question was whether he had informed the owner of the change in plans, and he responded, "yes authorisation taken over phone." In cross-examination he could not recall saying on direct examination that he had told her that if he needed to do a general anesthetic and extract any teeth he would call her, because his mind was not very clear at present, but that would be a routine practice. He said he was unable, at present, to recall the Complainant's testimony.

[79] College Counsel suggested the Complainant had said that no one had called her to advise her of the general anesthetic, and he responded that he did not know who had called her, or whether it had been a mobile phone or a landline. He was reminded that he said in direct that he did not know if it was him or a staff member who had called her. When it was put to him in cross-examination that he did not recall if it was him, he said, "I did not call her… usually it

[11] Exhibit 19

was the clinic" that called clients. He explained that he was answering what he recalled while under the influence of his opioid medication, but agreed that he had only remembered in cross-examination that it was not him who called about the general anesthetic, having said in direct that he did not recall whether it was him or a staff member.

[80] He was asked if he had a record of the call, and he said there should be one. College Counsel reminded him that he had an obligation to make a record of it, and Dr. Bajwa said he did not remember if they usually recorded "those small calls like that." He said records would reflect communications about things like extraction and anesthesia. It was suggested that there was no record because there had been no call, and he said he wasn't sure, but it was routine practice to make a call in those circumstances.

[81] Dr. Bajwa agreed that he had two options for documenting informed consent; the first in the patient's records, and the second on the authorization form. He agreed the box for general anesthetic was not ticked on the form and there was no note of a conversation with the Complainant beyond the standard paragraph on the form.

[82] College Counsel referred Dr. Bajwa to the transcript of a proceeding on August 27, 2024, where he had testified that it was preferable to do sedation and not general anesthetic. He confirmed his view that it was preferable if you could proceed with just sedation, but that had not been possible in this case, and he had to move to a general anesthetic.

[83] Dr. Bajwa agreed the Dog's chart did not reflect what kind of x-rays the Complainant had declined on July 16, 2019. He had told the Inspector that it was dental and chest x-rays that were discussed.

[84] The Inspector also asked a series of questions under the heading, "For July 19, 2019:" which sought Dr. Bajwa's reason for dispensing benazepril, which he gave as, "heart murmur 3/6," and posed a second question about whether the Dog had been on benazepril before, to which he responded, "record requested from Sullivan Animal Hospital but never received."

[85] In relation to the wound repair, Dr. Bajwa's records noted, "wound repair under sedation, discussed anesthetic risk," but Dr. Bajwa told the Inspector that no sedation was given on that occasion. He agreed in cross-examination that the plan had changed in that sedation was avoided and he had not made a note of the change, but it was clear from the absence of a note

of sedation that none was given. He did not agree the medical records were deficient or needed clarification.

[86] In relation to the record indicating that tartar was present, Dr. Bajwa reiterated that it was a template error, and agreed that it had not been edited for accuracy. He agreed that similarly to the furosemide omission it could have been corrected if it had been caught on a review.

[87] Dr. Bajwa acknowledged that an Inspector provided a follow up letter on July 29, 2022 seeking fuller responses to some of the questions, with a deadline of August 12, 2022, and that the Inspector's notes indicate that he spoke with Dr. Bajwa on August 15, making a notation in relation to the Dexdomitor issue that the template converted the dosage. Dr. Bajwa agreed that he could have altered the notation made by the template if he had reviewed it.

[88] Dr. Bajwa reiterated that he had other sedatives available, which he had identified to the Inspector, but one caused apnea and there was no antidote for any of them. He agreed that certain opioids could also be used and could also be reversed, but the reversal agents were not generally kept in stock, as those drugs did not as often have adverse effects. Dr. Bajwa said the drug that a clinician is more experienced with and was confident with was "the main thing," in the field.

## F. Submissions

### 1. College

[89] The College submits in relation to credibility that the Panel should prefer sources of evidence other than the Respondent, given the internal inconsistencies in his evidence, conflicts between his evidence and objective or proven evidence, and its improbability. College Counsel cites, among other authorities, the case of *Bradshaw v. Stenner*[12], which outlines the factors for assessing credibility of evidence. The College relies on the documentation from the medical record and College files, and on the evidence of the expert witness, Dr. Torske.

[90] In relation to informed consent, the College submits either that it was not obtained, or that it was not properly documented; and in particular:

> 53. The question the Panel must ask in this case is whether Dr. Bajwa obtained Ms. Taylor's informed consent to administer general anesthesia, not whether he obtained informed consent to the Dental Cleaning as a whole. This interpretation of

[12] *Bradshaw v. Stenner*, 2010 BCSC 1398 at paras. 186, 191 (aff'd 2012 BCCA 296).

both s. 211 of the Bylaws and the common law was recently confirmed in *CVBC v. Bajwa 19-045, Ruling on a Citation*, *February 28, 2025* ("*CVBC v. Bajwa, 19-045*").

54. There, Dr. Bajwa argued the requirement to obtain informed consent in relation to "veterinary services" under s. 211 of the Bylaws related to a procedure as a whole, and not its constituent parts (i.e., general anesthesia) such that consent to a dental procedure included consent to general anesthesia. That Panel firmly rejected Dr. Bajwa's argument:

> [39] Bylaw 211 is consistent with the law of informed consent as summarized in *Gilmore v. Love*, 2023 BCSC 1380 at paragraph 360.[13]
>
> [40] Neither the common law nor Bylaw 211 support the proposition that informed consent was only required for the procedure i.e. an eye examination or dental cleaning and not the use of sedation or a general anesthetic. [emphasis added.]

55. The issue in this case is not whether Dr. Bajwa sufficiently disclosed the risks of general anesthesia to [the Complainant], but whether [the Complainant] consented at all to general anesthesia. In the College's submission, the evidence is clear that she did not.

[91] The College also submits that it has established that the use of Dexdomitor and acepromazine was inappropriate for a patient of the Dog's age with a heart murmur, either separately or in combination, or that the dosages were inappropriately high. The College urges the Panel to accept the evidence of Dr. Torske over that of Dr. Bajwa, as determinative of professional misconduct or non-compliance with the Bylaws or standards specified in the Citation, in relation to the use of the subject medications in this matter.

[92] Finally, in relation to the Respondent's medical records, the College submits that Dr. Bajwa breached the Bylaws by: (a) failing to record the injection of furosemide; (b) failing to accurately record the dosage of Dexdomitor; and (c) failing to use dental charts, on July 16, 2019; and by: (d) failing to record client communications in relation to x-rays being declined; (e) failing to document his interpretation of the x-rays received from Sullivan; and (f) inaccurately documenting sedation; and (g) tartar, on July 19, 2019.

[93] In relation to the x-rays received from Sullivan, the College concedes that there is a notation of a conversation in the July 19, 2019 record produced by the Respondent[14], but no notation of the Respondent's interpretation of those x-rays. It relies on the expert's opinion that detail of diagnostic conclusions must be included in records.

[13] "… the disclosure which must be made to a patient will often be more than that which the medical profession might consider appropriate to divulge… The test now focuses on what the patient would want to know...
[14] Exhibit 19

**2. Respondent**

[94] The Respondent raises issues of delay in relation to the allegation pertaining to informed consent; and issue estoppel in relation to the issue of the dose of Dexdomitor. He seeks dismissal of the Citation in entirety, and in the alternative, of the allegations that are unproven. He says the procedures and records challenged are dated and unremarkable in that the animal suffered no ill effects and no complaint was made until the Respondent was asked to provide records in response to unrelated complaints by the Complainant about other veterinarians who cared for the Dog before the Respondent did.

[95] Counsel for the Respondent submits, without evidence, that it is unusual for the College to pursue an investigation without a complaint, and to pursue a complaint against a “second opinion” practitioner. Counsel cites testimony in a Human Rights Tribunal matter involving the Respondent in support of “policy” not to entertain complaints against second opinion veterinarians, as it undermines cooperation in investigations. The Panel notes that none of these points were supported by evidence. Counsel also submits that the Respondent raised issues with proceeding with this Citation in light of several other complaints proceeding at the same time against the Respondent (the “proliferation argument”), which she acknowledges were dismissed by the Panel.

[96] Respondent’s Counsel also makes some submissions about a different standard of proof in the event of a penal sanction being sought by the College, and a higher standard of justice where a person’s livelihood is at stake, citing *Kane v. Bd. of Governors of U.B.C.*, [1980] 1 S.C.R. 1105, 1113.

[97] As pointed out by the College in its Reply, decisions under the *Veterinarians Act* have rejected the application of any standard other than the balance of probabilities. To the extent that Counsel intends to argue a different standard “in the event that” the College is seeking a penal sanction, that is something that in the Panel’s view should have been fleshed out in the pre-hearing phase, well before the point where the Panel is tasked with applying the standard. It cannot be argued speculatively here, or retroactively in the sanction phase, should there be a finding of liability and a sanction is then sought that the Respondent deems “penal”. Even if it were supported by evidence, the point raised by the Respondent is a novel one that in the Panel’s view requires more by way of credible argument than has been offered by the Respondent, in what appears at this stage to be a whimsical submission.

[98] In relation to delay, the Respondent's Counsel reiterates the proliferation argument, which we note was first raised in an application to adjourn the hearing generally, and then she submits that the delay on the part of the College in this matter resulted in an unfair hearing against the Respondent. As observed by the College in its Reply submission, the proliferation argument is foreclosed by the Panel's prior ruling on the adjournment, and it is not clear to the Panel how its resurrection might assist in relation to the matter of delay.

[99] In support of the fairness argument, Counsel points out that the Respondent was first asked in May 2020 for his records, in connection with the other investigations, and that, given this request related to unexceptional events, the 10-month delay to that point had already impacted his ability to recall the events. She observes by way of illustration that there was some confusion regarding the name on the invoice from the initial visit, resulting in considerable delay in the Respondent's ability to produce that record.

[100] Counsel says that the Respondent was not provided with a copy of the Complainant's complaint when it was received or at any point during the period before the investigation against him was opened, during a time when he was answering questions about his records in relation to the Dog. This further hindered his ability to recall the events or find the records pertaining to them. Then, she says, the College made its decision to proceed against the Respondent in January 2021, but he was not notified until June 2021. When he was notified, the Inspector posed some general allegations and responses, and the Respondent responded within a month.

[101] The very detailed inquiry from the Inspector was not provided to the Respondent until May 2022, almost a year after the initial investigation letter. There followed an exchange between the Inspector and the Respondent while the Inspector attempted to obtain answers to the questions, and the Respondent provided responses, some of which were after deadlines or deemed insufficient by the Inspector.

[102] Counsel points out that the approval of the Citation did not then occur until 13 months after the exchange with the Inspector, and a further 10 months elapsed before the Citation was issued in July 2024, five years after the relevant events.

[103] In relation to this series of delays, the Respondent submits as follows:

> 31. In the course of his evidence before the Panel, Dr. Bajwa was clearly hampered by the passage of time, both before he was asked to turn his mind in detail to what had occurred and overall. It is unreasonable and prejudicial to a professional to require the

> registrant to recall details about an unremarkable event years after the fact. Inquiries of this sort invite speculative responses.
>
> 32. As a consequence of the extraordinary delay here, Dr. Bajwa was only able to provide general answers about his communication with the owner about sedation and anaesthesia. The answers he provided over time addressed different aspects of the process, such as what was discussed in advance and what happened during the dental procedure. At the hearing in direct he was clear that he could not recall if he or staff called the owner for consent to anaesthesia.
>
> 33. The frailty of attempting to obtain detailed information years after the fact about unremarkable events is equally clear from the significant degradation of the owner's memory over time. It became clear in cross examination that she was pre-occupied with what she considered to be relevant, and was not able to address, important information that was not part of her personal narrative, including the important fact that her daughter's two animals were also present on July 16, 2019 and that her daughter was likely also present as she paid the invoice that day. This culminated in the owner suggesting after the lunch break during her cross-examination that a second visit to address an anal wound took place with her daughter also present and was regarding her daughter's dog, not [the Dog]. Even when it became clear that the cleaning of the anal [wound] was performed on [the Dog] because of the physical description of the dog involved, and his visit on July 24, 2019 when he again presented for shaking and the anal wound was rechecked, the owner was unwilling to step away from what she purported now to be sure about. Inviting persons to essentially speculate about what happened years after the event does not result in useful or reliable evidence.

[104] Counsel goes on to point out deficiencies in an Inspector's interview of the Complainant in relation to this complaint, resulting in suggestions as to how the events unfolded, late in the sequence of events, further impairing the Respondent's right to a fair hearing, the need to safeguard the truthfulness of evidence, and his ability to make full answer and defence. Based on this, Counsel for the Respondent submits that the allegations pertaining to informed consent should be dismissed or stayed for abuse of process, relying on *Blencoe v. British Columbia (Human Rights Commission)*, 2000 SCC 44 and *Law Society of Saskatchewan v. Abrametz*, 2022 SCC 29, para. 38. These arguments will be considered under the analysis of informed consent below.

[105] The Respondent also challenges the validity of Bylaw Section 245 and Standards published by the College pursuant to it. This argument reiterates arguments made in prior decisions under the *Veterinarians Act* which have rejected it. Counsel has added a new argument in reliance on Dr. Torske's evidence about how bylaws are passed in Manitoba, and she submits that the prior panel decisions are not binding on this Panel and it would be wrong to follow them, because they are wrong. Moreover, she submits that the laborious reiteration of the argument is the result of the Panel declining to adjourn the hearing until after other matters

against the Respondent have been resolved, presumably to a point of binding precedent. The Panel elects to follow the decisions of prior panels relating to the validity of Bylaw 245 and the Standards passed pursuant to it.

[106] In relation to the expert testimony, Counsel for the Respondent submits that Dr. Torske was not qualified as an expert in anesthesiology, although she testified to training and experience in that area. She also submits that Dr. Torske had an apparent affinity for the Manitoba regulator which could be translated into a lack of neutrality, which she says is amplified by her taking opportunities in her testimony to expand beyond the scope of her requested opinion. The Panel did not detect any apparent affinity for the CVBC on the part of Dr. Torske, beyond what might flow from the nature of her retainer. The Respondent's submissions regarding the scope and persuasiveness of her opinions will be considered in relation to the various topics to which they pertain.

[107] In relation to credibility, in addition to the passage of time and its apparent effect on the participants' ability to recall, Respondent's Counsel submits that the Panel's direction that the Respondent attend for cross-examination on penalty of suspension required that he testify while affected by opiates, and that his evidence on direct examination, when he was not so affected, should be given more weight.

[108] The Respondent makes several submissions on the issue of informed consent, which will be summarized here and considered below in the analysis of that topic. Respondent's Counsel makes the distinction between animal medical and human medical consent, saying that the latter does not engage personal inviolability or notions of assault and battery. Counsel submits that the relationship with a client pertaining to medical care of their pet is "less legally weighty" in the absence of issues of personal bodily integrity, such that decisions relating to informed consent in the human medical sphere have less relevance, and the level of consent required extends to the nature of the procedure to be performed, but not always to the details of the process that will be followed. Counsel points to the wording of Bylaw Section 211(6)(a), which specifies that "the information provided to obtain informed consent must include information about: (a) the condition for which the veterinary services are proposed, including any differential diagnoses, and any presumed or definitive diagnosis."

[109] The Respondent says that in the absence of a definition of “veterinary services” in the *Act*, Bylaws or Standards, the section must be interpreted broadly, and requires only general consent to the services, not to the manner in which they will be carried out.

[110] In relation to the merits of the issue of informed consent, Respondent’s Counsel submits that the Complainant’s evidence establishes that she was confused about the plan in terms of sedation and general anesthesia and that her evidence that she was told the plan and the risks, combined with paragraph 3 of the Consent Form, support a conclusion that there was consent to the option of general anesthesia if the Respondent deemed it necessary. In addition, she relies on the onus of proof in asserting that the absence of a telephone call was for the College to prove and it has not done so.

[111] With respect to the expert’s testimony on informed consent, Respondent’s Counsel submits that her opinion on the ultimate issue of whether informed consent was obtained (according to the medical record) is inadmissible, and given that her experience is from outside BC, her opinion regarding the application of the CVBC Standards and Bylaws is both inadmissible and unhelpful.

[112] The Respondent submits that the expert’s opinion is unreliable because she did not have the Anesthesia Record, and her level of qualification affects her ability to opine on what a general veterinary practitioner should know about anesthesia. At the same time, Respondent’s Counsel submits that the expert cannot testify as an expert in anesthesia as she was not qualified as such, by the College.

[113] Respondent’s Counsel further submits that the potential adverse effects of Dexdomitor and acepromazine that concerned the expert are theoretical because they did not occur in this case. While the expert suggested that survival was a “low bar,” Respondent’s Counsel says the Anesthesia Chart indicates “strong normal values over all parameters measured,” which, she submits “is not a low bar; it is the best outcome that can be expected.” Counsel further submits:

> 137 Dr. Torske acknowledged that in all her years of practice she had never attempted to do a dental cleaning under sedation alone. In other words, her experience with the approach Dr. Bajwa was undertaking with Dexdomitor and Acepromazine was non-existent. Given that, she is not able to assist the Panel with whether Dr. Bajwa’s medication choice was sound or not for this specific purpose. This is a very important point. Veterinary medicine is a practical science in which experience is key. Dr. Torske cannot comment helpfully on a procedure with which she has no actual experience.

[114] The Respondent submits that his evidence and opinion as to the appropriate medications to use should be accepted over that of the expert. In specific reference to the dosage of Dexdomitor, Respondent's Counsel takes issue with the College's suggestion that the Respondent's calculations only became clear at the hearing, and points to a conversation that the Respondent had with a College inspector in November 2022, which is disclosed in the materials but was not provided to the expert. She submits that the dosage is clear, and was clear to the Respondent, despite his use of an unconventional syringe. In relation to the dosage of acepromazine, Respondent's Counsel submits that the Respondent's reliance on the VIN should be accepted over the opinion of the expert that the dosage recommended in the VIN is too high.

[115] Respondent's Counsel submits that the requirement that registrants adhere to "the level of care, skill and knowledge expected of a competent registrant," as set out in Bylaws 204(2) and 209(f), is attenuated by the use of the word, "strive" and that the Respondent has met that requirement. She submits that even if the Respondent did not fully meet the enumerated standards, that does not amount to professional misconduct. She submits that the Dentistry Standard relied upon by the College is dated after the events at issue here, and the College has not produced the applicable standard.

[116] In relation to the adequacy of the Respondent's medical records, his Counsel submits that, "Medical records must be read from the perspective of a skilled professional used to making reasonable inferences from the information provided," and not from the perspective of a hearing panel outside the exigencies of practice. In relation to the expert's opinion on this point, Counsel submits that she has not practiced in BC for over 25 years and while she suggested that the standards had not changed in that time, none of the publications relied upon by the College existed before 2017.

[117] In response to the allegation that the Respondent failed to document the furosemide injection, his Counsel submits this is a simple clerical error, arising from the fact that the Dog's visit was for unrelated matters, and the injection arose after the Respondent viewed the Sullivan x-rays on the Complainant's phone. She points to the confusion relating to the July 19, 2019 invoice in the daughter's name not being found until late in the investigation, and the prescription for furosemide tablets on that having raised the issue of the prior injection. Counsel says the expert's testimony is unhelpful on this point and the Respondent's evidence and the record speak for themselves.

[118] Respondent's Counsel submits that the issue with how the dosage of Dexdomitor was recorded by the Respondent's template has been decided in a prior panel decision against him[15], and that in light of the time frame here, it is barred by issue estoppel and is an abuse of process. Counsel relies on case law pertaining to abuse of process in submitting that the College should have dealt with all allegations pertaining to this single issue on a single hearing, and that it cannot have a second bite of the apple.[16] On the merits, Respondent's Counsel says the College cannot raise the issue of the Respondent's use of international units because that is not specified in the Citation, and the College was apparently not concerned about it in August 2022 when it was first raised.

[119] On the allegation that the Respondent failed to adequately document his discussion with the Complainant about dental radiographs, Counsel submits that the notation "x-rays declined," is sufficient and meets the standard. She submits the College has not proven that there was further relevant communication that should have been recorded, and that it is not open to the College to allege a failure to have that communication, which is not what the Citation alleges.

[120] Counsel for the Respondent submits that the combination of the notes regarding the review of the Sullivan records and the prescription for furosemide is sufficient for continuity of care, because the x-rays and the prescription would confirm the diagnosis of cardiovascular disease.

[121] In relation to the allegation that the absence of sedation for the anal wound treatment was not recorded, Respondent's Counsel submits that the combination of what was recorded and the absence of sedation medication on the file were sufficient to document that although sedation was contemplated and consented to, it was not required. As to the inaccurate recording of tartar on the second visit, Respondent's Counsel submits that it is explained by the template error, and the expert's suggestion that it may indicate no physical examination was performed is inflammatory and calls her objectivity into question.

[122] The Respondent's failure to use a dental chart has not been proven, Counsel submits, because the Respondent was only performing a dental cleaning, and the College has not established that use of a chart was a standard in those circumstances at the relevant time, given that the Dentistry Standard relied upon is dated after the incident.

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[15] 2025-04-16 *CVBC v. Bajwa*, File No. 19-084.
[16] *British Columbia (Workers' Compensation Board) v. Figliola*, 2011 SCC 52, [2011] 3 S.C.R. 422

### 3. College Reply

[123] The College takes the position that the Respondent's delay argument is an abuse of process because it is inconsistent with the position taken by the Respondent on a preliminary application to dismiss the case for inordinate delay, to the effect that the delay caused prejudice "not because memories have faded or witnesses or evidence have been lost," but for other reasons that were rejected by the Panel in its ruling. Part of the basis for the ruling was the absence of evidence of prejudice arising from the delay.

[124] The College says to raise this issue again, at this point in the proceeding, is an abuse of process, because the effect on the Respondent's memory of the effluxion of time was a fact known to him at the time when the application was first raised. The College also takes the position that there is still an absence of evidence pertaining to the cause of the delay and its effect on the Respondent, which it says is not apparent from his testimony, and in light of Respondent's Counsel's failure to cross-examine Darcie Light on the issue of delay. This, the College says, deprives it of the right to lead evidence regarding the reasonableness of the delay. The College submits that the Respondent's submissions as to the effect of delay consist of evidence that was not led at the hearing.

[125] In relation to the merits of the delay argument, the College says there is still insufficient evidence to support it. It points to the absence of evidence regarding the nature of the delay, the apparent ability of the Respondent to recall older or crucial details, and the lack of support for the proposition that this is one of the clearest of cases where delay should end the case.

[126] The College relies on prior panel decisions on the issue of enforceability of the Bylaws and Standards[17] (which the Panel has already indicated it accepts). The College disagrees that the Respondent was coerced to appear for cross-examination by the Panel, and notes that he both failed to apply for an adjournment and appeared to have better recall on cross-examination than on direct, in some respects.

[127] As to the three subject areas of the Citation, the College relies on its prior submissions, and points out that the Respondent's testimony that he told the Complainant he would call her (and that someone did call her) if he needed to progress to a general anesthetic makes redundant his Counsel's submission that informed consent does not require that a client

[17] *CVBC v. Chaudhry*, Final Decision of the Hearing Panel, File No. 20-I05(b) (August 28,2024), and *CVBC v. Salhotra*, Decision on a Citation, File No. 2I-065(b) (November 25, 2024)

consent to general anesthetic before it is administered. It submits that the issue is not whether the Respondent discussed the risks with the Complainant, which the College accepts that he did, it is whether, as asserted by the Respondent, she consented to a general anesthetic being administered.

[128] In any event, the College submits, the Respondent's testimony acknowledges the need for consent to general anesthetic, and that it was not provided in advance. He asserts that a call was made to her, and she says it was not. The College points to the Respondent's failure to document the conversation with the Complainant, if it occurred, and her consent, if it occurred.

[129] The College resists the challenges to the expert opinion on the basis that she was qualified by the Panel in relation to small veterinary practice in BC, and it does not seek to rely on her as an expert in anesthesiology. It also submits that none of the Respondent's challenges to her testimony detract from her expertise or should persuade the Panel to prefer the Respondent's testimony over hers. Her testimony, the College submits, establishes that the use of Dexdomitor and acepromazine is a marked departure from the standard and therefore constitutes professional misconduct as well as Bylaw and Standards breaches.

[130] In relation to the changes in versions of the Dentistry Standard, the College points to wording in the 2020 version indicating the nature of changes that were made from the prior version, which do not change the sections relied upon. This is discussed further below.

[131] College Counsel challenges Respondent's Counsel's suggestion that medical records should be considered in the context of the exigencies of practice, as unsupported by the law and inconsistent with prior panel decisions that accurate medical records are the "cornerstone of a good veterinary practice."[18]

[132] In response to the Respondent's submissions of issue estoppel and abuse of process in relation to the dosage of Dexdomitor, the College asserts that the issue is factually specific to the dosage administered to the Dog, and therefore not the same issue as that dealt with by the prior *Bajwa* panel.

## G. Analysis

### 1. Informed Consent

[18] *CVBC v. Chaudhry*, No. 20-105(b), Ruling on Penalty and Costs, December 20, 2024 at para. 17, and *CVBC v. Salhotra*, No. 21-065(b), Decision on Sanction and Costs, March 17, 2025.

[133] The issues in relation to informed consent is whether the College has established: 1) that the Complainant did not consent to the Dog receiving a general anesthetic and, 2) if so, that general anesthesia requires specific consent. In relation to the latter issue, the Panel adopts the reasoning of the panel in the case of *CVBC v. Bajwa 19-045, Ruling on a Citation*, February 28, 2025, cited by the College, which it finds persuasive.

[134] In relation to whether the Complainant consented, there are two aspects to this: firstly, whether the Respondent told the Complainant before the dental procedure that the Dog would not survive a general anesthetic and that he therefore would not administer anesthesia; and secondly, whether the Respondent or a member of his clinic called the Complainant to advise her and obtain her sign-off, when the decision was made to move from sedation to general anesthetic. The two questions are intertwined, and the evidence intersects at the point of agreement that the Respondent would call the Complainant if he moved outside the parameters of what they had discussed before she left the clinic. The Complainant recalls that it was to be a call about tooth extraction; “general anesthetic was never on the table;” and she says that there was no such call. The Respondent asserts that it was a call about general anesthesia, and that the call was made, although there is no written record of it.

[135] The question is therefore only whether the Respondent or someone from his office placed that call, advised the Respondent that the Dog was going to be placed under general anesthesia, and obtained her consent to that.

[136] As submitted by Counsel, the matter depends largely on an analysis of credibility of the differing versions of the prior conversation and whether a call was made. Setting aside the process issues raised by the Respondent, the Panel acknowledges that the quality of the evidence is significantly eroded by the passage of considerable time since the events. It is also complicated by the manner in which the Complaint arose, in the context of investigations of two other complaints by the Complainant against veterinarians that treated the Dog before the Respondent.

[137] It is notable that the first of the Complainant’s complaints, that against Sullivan (“the Sullivan Complaint”), arose the day after the Respondent discussed the x-rays taken by Sullivan with her. The Complainant came to believe from that conversation that the Sullivan vet’s suggestion that the Dog could undergo general anesthesia was negligent. The Sullivan

Complaint documents the fact that as of July 20, 2019, the Complainant believed the Respondent had not administered a general anesthetic to the Dog.

[138] As noted by Respondent's Counsel, the Complainant states in the Sullivan Complaint that the Respondent had performed a dental cleaning "under sedation." By the time she testified, she believed he had told her he did not plan to sedate the Dog at all, and would call if he found an extraction to be necessary, in which case, he might need to slightly sedate him.

[139] The Panel prefers to rely on the Sullivan Complaint as a more accurate indication of the impression that the Complainant had about her July 16, 2019 conversation with the Respondent, at least as of the conclusion of her conversation with him about the Sullivan records, on July 19. The question is whether that impression leads to a conclusion that the Complainant at no time consented to general anesthesia. The state of the medical records on this point, while not themselves the subject of scrutiny, may assist in interpreting the evidence regarding what occurred on the date in question.

[140] The Panel observes, firstly, that the Consent Form supports a conclusion that consent was not obtained to general anesthesia before the Respondent left the clinic. That box was specifically left unchecked, and that is consistent with the evidence of both the Respondent and the Complainant. While Respondent's Counsel points to the standard wording on the form in support of prior consent, that is not consistent with the Respondent's own evidence that there was to be a call if he made that decision. In addition, the state of the consent portion of the form cannot reasonably be overridden by the general language, or it would be superfluous.

[141] The Panel notes that there is also an entry in the July 16, 2019 medical record, in the notes about the procedure and medications, under the heading, "Information and Home Care Instructions[19]," which states, "Due to anesthetic effect your pet may remain groggy and sleepy." It is not clear whether this reflects the terms of a take-home sheet provided to the client, a conversation after the procedure, or just the file notes as to what should have been said. This passage was not covered in evidence by either Counsel.

[142] It is equally clear that the medical records do not reflect a call having been made or a conversation around consent to general anesthesia having occurred. Again, the issue is not whether the Complainant was informed of the risks. The form may well support a conclusion

[19] Exhibit 8, p. 104/211

that she was, as does her testimony. However, her clear impression arising from that discussion was that general anesthetic would have been fatal to the Dog.

[143] The Panel acknowledges the College's submission that the Respondent's evidence as to who made the call changed somewhat, perhaps even solidified, between direct and cross-examination, but the Panel does not find that this significantly colours his evidence, which was consistent on the fact that the clinic had a policy of calling a client in those circumstances, and "a call was made."

[144] The Panel also agrees with the Respondent's submission that the expert may not provide an opinion on whether informed consent was obtained, which is the issue for the Panel to decide, and in this case, falls to be determined more on the facts than the state of the record.

[145] On reviewing the medical records, however, the Panel has made certain further observations that it considers relevant to the interpretation of the evidence. Firstly, there is an entry on July 19, 2019, in relation to the treatment of the anal wound, under "PLAN," indicating, "pre-anesthetic blood work declined," and "wound repair under sedation: *discussed anesthetic risk*." [Emphasis added.] There is no similar entry under PLAN on July 16, 2019, which states only, "x-ray declined, blood work declined, ANESTHESIA."

[146] The second relevant aspect of the records is the invoice from July 16, 2019, which specifically states "under sedation" for the two other pets and not for the Dog, although as noted by the Respondent, the same fee was applied, which included a charge for sedation. Notably the invoice process does not appear to distinguish between sedation and anesthetic, and there are other locations in the records, and the evidence, that appear to blur the distinction. Nonetheless, there is no notation of sedation on the invoice for the Dog, which is consistent with the Complainant's evidence that she was unaware of the use of a general anesthetic until the issue was raised with her by the Inspector in 2023.

[147] The Panel also finds that part of the reason the Complainant elected to proceed with the dental cleaning at SAH was because of what she understood from the Respondent's conversation with her about the distinction between sedation and anesthesia. While in some cases the distinction may be blurred, and consent may conceivably be provided for both at once, both the Complainant and the Respondent agree that the distinction was made starkly in this case, and there was to be a call specifically *because* the Complainant had not consented to general anesthesia.

[148] The question left for the Panel is which side of the burden of proof this body of evidence lands on, in relation to whether consent was obtained from the Complainant before the general anesthetic was administered. The Panel's view in these circumstances is that the collective state of the records supports the Complainant's assertion that consent was not provided before the procedure, and that no call was made during it. The Panel would have expected to see a note of the prior discussion about general anesthetic and the need for a call; a notation that the call was made and/or the risks discussed; an indication on the Consent Form of the need for a call; or a reflection on the invoice; supporting the proposition that *any* information about the use of general anesthesia was provided to the Complainant. None of these exist. Taken with the Respondent's own testimony about the agreement that there would be a call, and the fact that the box was specifically left unticked, we are of the view that the burden of proof shifts to the Respondent to establish, beyond his "usual practice," that a call was made.

[149] Telephone records could have confirmed whether or not there was a call, but no records were produced. Each party asserts that was the responsibility of the other; however, given the totality of the evidence relating to the nature of the procedure and what was discussed, and in light of the records, and the testimony of the Respondent, the Panel considers that it was for the Respondent to produce those, not to rely on their absence in the hopes that the College could not prove its case. The absence of any suggestion that they were pursued operates against the veracity of the Respondent's assertion that he believed he had consent.

[150] As for the Respondent's procedural arguments relating to informed consent, the Panel has dispensed with some of those in its review of the Respondent's Submissions, and will not reiterate those findings here.

[151] Turning to the submission that the informed consent allegation should be stayed for delay, the Panel does not consider that a case for the extraordinary remedy of a stay has been made out or supported by evidence. The Panel will of course take delay into account in assessing the quality of the evidence and whether particular memory deficiencies are reasonable in the circumstances, whether due to the passage of time, or to the Respondent's own frailties. In relation to this issue, informed consent, however, the passage of time or memory lapses cannot be said to have affected the state of the medical records, and it is the records which serve as the foundation for the Panel's assessment of where the onus falls. While the Panel has decided that the issue turns to some extent on the absence of a record of a

telephone call that the Respondent asserts was made, as we have observed, it is not suggested that he attempted to obtain telephone records and they were unavailable due to the delay.

[152] The Panel finds that the College has established that the Respondent did not obtain the Complainant's prior informed consent to administer general anesthetic to the Dog on July 16, 2019. This finding establishes the general allegation in paragraph 2 of the Citation; however, the view of the Panel is that paragraphs 2. a. through f., some of which allege facts and not misconduct, have not been specifically proven. In particular, as conceded by the College, the evidence does not support a conclusion that the Respondent failed to explain the nature or risks of general anesthetic.

[153] Paragraphs 3 through 7 of the Citation specify which provisions the College says the Respondent has breached by failing to obtain informed consent. These are dealt with below.

[154] Paragraph 8 of the Citation alleges that, if the Respondent did obtain the Complainant's informed consent to administer general anesthetic, he failed to obtain consent in writing or document the process by which consent was sought and obtained. This is phrased as an alternative allegation if a lack of informed consent is not proven. While the Panel has found a lack of informed consent, and has based that finding on the absence of records documenting consent or the process by which it was obtained, this allegation does not appear to invite an additional finding in relation to the state of the records. In any event, the Respondent has experienced a consequence from the absence of records relating to consent, i.e., a finding that lack of consent has been proven. The Panel's view is that it is not open to it, or necessary, to find this allegation proven as a separate matter, and it declines to do so.

[155] The Panel's view is that in relation to the particular provisions specified by the College in paragraphs 3 to 6, the most applicable provision should be applied, when considered in relation to both the wording of the provision and the gravity of the event. It does not assist to make multiple findings of non-compliance if one suffices to capture the nature of the misconduct.

[156] Having said that, in general, we consider professional misconduct to be higher on the scale of seriousness than breaches of the Standards or Bylaws, and that, as discussed below, in some circumstances a single breach of a Standard or a Bylaw can amount to professional misconduct, where it represents the requisite marked departure from the standards expected of a competent veterinarian.

[157] Of the CVBC provisions particularized in paragraphs 3 to 6 of the Citation, the Panel's view is that the most applicable specific provision is that in paragraph 3, which is Section 211(2) of the CVBC Bylaws. That section provides:

> (2) Before providing veterinary services to a patient, a registrant must ensure that the client has provided informed consent to the proposed veterinary services.

[158] The Panel therefore finds a breach of Section 211(2), and declines to make concurrent findings on paragraphs 4, 5 and 6 of the Citation.

[159] Paragraph 7 of the Citation alleges that the breach described in paragraph 2 constitutes professional misconduct. As pointed out by the College, prior panel decisions have held that professional misconduct is a "marked departure" from the standard expected of a competent registrant.

[160] While the Respondent argues that a single allegation amounting to a breach of the Bylaws cannot also amount to professional misconduct, the question, in the Panel's view, is the seriousness of the breach and/or the importance of adhering to the standard defined in the relevant section of the Bylaws.

[161] The Respondent submitted, as outlined above, that the concept of informed consent is "less weighty" in the veterinarian sphere than in human medicine, and that the aims of the Bylaw are directed toward transparency, as a matter of contract, rather than personal dignity.

[162] The Panel finds however that the issue here centres less on the matter of "information" than it does on the matter of consent. The evidence establishes that the Complainant had specifically not provided her consent to the use of general anesthesia, because of what the Respondent had told her about the Dog's condition. While the Respondent does not acknowledge the whole of that conversation, he accepts that he did not have her consent, and, as we have found, he did nothing to document that he did. This goes beyond not providing sufficient information, or transparency, in the view of the Panel, to a complete failure to ensure that the treatment he administered was one to which the client had agreed. On one view it goes farther, to a deliberate disregard of the client's expressed wishes. The argument that it was just a step in a procedure that itself was consented to is negated by the Respondent's admission that this step was the subject of specific discussion.

[163] The Panel is therefore also of the view that the circumstances in relation to obtaining informed consent in this matter amount to professional misconduct as alleged in paragraph 7 of the Citation, acknowledging that the standard is a *marked* departure from the standard expected of a competent registrant. It is not just a failure to document consent that the Respondent thought he had obtained. The Complainant was clear on her understanding that she would receive a call, and the Respondent acknowledged that understanding, and that he told her he would not proceed without her further consent. The evidence suggests that the Complainant would not have provided consent, had she received the call. The Panel has found that the evidence supports a conclusion that the call was not made.

[164] It must be born in mind, in the view of the Panel, that this relates to anesthesia on a geriatric dog with a heart condition, where the risk was indeed high. The Respondent had a duty to ensure that consent to that significant risk was obtained and if so, that it was properly reflected in at least some facet of his file. In its absence, the Panel finds it alarming that the Respondent proceeded with anesthesia at all.

**2. Administration of Anesthesia and Sedation**

[165] The allegations in the Citation pertaining to this issue centre on the allegedly inappropriate use of Dexdomitor and acepromazine, at the dosages administered and/or in combination, or at all. Relying on the evidence of the expert, Dr. Torske, the College asserts, alternatively, that these were each inappropriate medications; the dosages for each were too high; the combination was inappropriate; or that the dosages applied were together too high.

[166] The Panel notes, however, that Dr. Torske's language in the opinion letter was perhaps less than definitive as to the appropriateness of these medications. She stated that they both had "potential contraindications," and that their use together, for a geriatric patient with cardiac disease, "would not be advised," adding, "in my opinion the use of them in combination was also inappropriate for [the Dog]." She referred to "potential adverse effects," and stated that after reviewing the records, these medications "should have been avoided." While Dr. Torske asserted that the absence of the Anesthetic Record did not affect her opinion, when she wrote it she was not clear on whether these medications had been used as induction agents, and she based part of her opinion on what she considered to be "substandard anesthetic practice." In relation to the dosages, the Panel understands that Dr. Torske did not have the explanation from the Respondent as to how he arrived at the amounts he used or in particular how he measured the Dexdomitor.

[167] It is clear based on Dr. Torske's evidence that the sedation protocol used by the Respondent was unconventional. The panel takes no issue with that, or that such a conclusion was within the purview of an expert in small animal veterinary practice. The evidence supports a conclusion that the protocol adopted by the Respondent was alarming to the expert, as well as the Investigator and the Investigation Committee; however, in the Panel's view, that is not determinative of misconduct.

[168] The issue is whether the use of these substances separately, in combination, or in the dosages administered, crossed the line drawn in the applicable Professional Standards. Here, the Panel is mindful that the expert was not qualified as an anesthesiologist, although she had considerable experience in that sphere. The Respondent also is not an expert, but clearly also has considerable practice experience. He expressed confidence in the use of these two medications to induce sedation, and made the point that the veterinarian’s preference, familiarity, and comfort level were important in supporting a positive outcome. It is not enough, in the Panel’s view, that a person qualified as an expert in small animal veterinarian practice considered his approach unconventional. It must be shown to be a sufficient departure from the expected protocol that it is also some form of non-compliance.

[169] As it turned out, this sedation protocol was not sufficient to permit the Respondent to proceed without anesthesia, but that is a separate question. The evidence does not support a conclusion that he adopted this protocol expecting it would fail; it suggests the opposite, in particular given the state of the Consent Form and the findings the Panel has made regarding informed consent.

[170] The sedatives used were also not shown to be life threatening or fatal to the Dog, who not only survived, but as pointed out by the Respondent, had no apparent detrimental effects or causes for alarm during the procedure. The evidence does not appear to support a conclusion that this result was either happenstance or a “low bar,” any more than simply the outcome the Respondent expected.

[171] There was evidence regarding the range of recommended uses and dosages of the two medications, and the Panel accepts the Respondent’s proposition, supported by the expert, that these may change over time, and with experience in practice. This appears to have been the case with these two substances and in particular with Dexdomitor.

[172] The Panel notes that the Respondent referred to the VIN in deciding on the dosages to use. The expert also referred to the VIN, but these portions of it were not filed in evidence. The Panel is aware that they contain certain cautions, or contraindications, about the use of Dexdomitor in geriatric animals or animals with cardiovascular disease which could have supported a conclusion that these medications were clearly inappropriate for the Dog; however, this was not canvassed sufficiently, in the view of the Panel, to establish that the Respondent proceeded wholly inconsistently with the Practice Standards or available literature. The Panel considers that the evidence shows only that he followed a protocol that was "not recommended."

[173] The salient question in the Panel's view, rather, is whether the use of these sedatives amounted to a breach of the Bylaw requirements that a registrant "strive to use the level of care, skill and knowledge expected of a competent practitioner." Setting aside the question of interpretation raised by the Respondent, this is not a precisely articulated standard, and the College has the onus of proving that the conduct amounts, essentially, to incompetence. The inclusion of the word, "strive" *may* also entail some failure on the registrant's part not to *try* to meet that level, but it is not necessary to deal with that argument. The Panel also notes that the Respondent was not cited for failing to obtain informed consent to the use of these sedatives, which he may have been well advised to do, given the state of the literature. Again, that is not the issue to which the Citation is directed.

[174] In the end, the Panel is of the view that there is some discretion for an individual veterinarian to make decisions in his practice, based on his experience, regarding the use of medications, and while others may not agree with the protocol he adopts, it is something else to find him incompetent for doing something that has no resultant or proven detrimental effect. Here, the passage of time also has some marginal relevance, as the Panel is not entirely satisfied that the College has pinpointed the accepted industry standard at the time these sedatives were administered.

[175] In summary, the Panel's view is that taken as a whole the evidence does not prove to the requisite standard that either the application or the dosage of either sedative, separately or in combination, ran afoul of the specified Professional Standards, on these facts.

[176] That said, the Panel would prefer that the Respondent undertake some updating in relation to conventional sedative protocols. It may be that in the six years since the events, he

has adopted a different protocol; that wasn't canvassed with him and likely would not have assisted the College. However, the Panel suggests that he might consider in light of this experience whether practices have evolved to a point where he could adapt his protocol to one that would be more contemporary and less out of line with either the literature or accepted practices.

### 3. Medical Records

[177] The allegations relating to medical records covered in the seven subparagraphs of paragraph 19 of the Citation are: a) the absence of a record of the furosemide injection on July 16, 2019; b) the inaccurate recording of the dosage of Dexdomitor on that date; c) the failure to sufficiently document discussions relating to the need for radiographs on July 16, 2019; d) the failure to sufficiently document the review of the radiographs from Sullivan; e) the inaccurate note about sedation on July 19, 2019; f) the erroneous note of "tartar" on July 19, 2019; and g) the failure to use dental charting.

[178] For the most part, the records on these matters speak for themselves, and the Respondent is not suggesting otherwise. Many of these oversights are acknowledged by him but characterized as insignificant, or rectified by other areas of the records. To some extent the issue may be how far past a characterization of sloppiness these deficiencies take the matter, and whether they cross the line into breaches of Professional Standards.

[179] The Citation provides alternative characterizations of the allegations contained in paragraph 19, as non-compliance with Bylaw Section 245; non-compliance with the General Records Standard, the Companion Animal Standard, or the Dentistry Standard; or professional misconduct. The College in its submissions has helpfully directed the Panel to specific portions of the relevant provisions that it says apply to the various record-keeping allegations.

[180] We here proceed with an analysis of the alleged records deficiencies contained in paragraph 19 of the Citation, and in the event of findings in favour of the College, identify the cited provision that we find to be most applicable.

#### a. Furosemide

[181] The Respondent admits that there was no notation about the injection of furosemide on July 16, 2019. He suggests this was a minor oversight and that it is mitigated or rectified by the prescription for furosemide on July 19, 2019.

[182] When the complete absence of a record of the injection or any charge on the invoice on July 16, 2019, and of a record as to the reason for administering the injection or providing the prescription are considered together, the Panel is of the view that the medical record for July 16 does not meet the Professional Standard. The expert opinion has some relevance on this aspect, and it refutes the Respondent's assertion that the reason for the injection would have been obvious. The same applies to the state of the record from the next visit. The records are missing both the event and the whole reasoning process. There was at the time no record from another veterinarian or any note of a differential diagnosis in relation to heart or lung conditions that would assist in filling in the gaps, had there been any mention of the injection in the records for July 16.

[183] The fact that the Respondent cannot establish when he reviewed the Sullivan records (and denied having them at all, at the commencement of the investigation) removes any foundation for his position that the omission of a note about furosemide on July 16, 2019 is an insignificant oversight. It appears to be a glaring omission that would have given a future practitioner no notice about the medication or the reason it was administered, had the Complainant done as she had obviously just done, and changed practitioners instead of returning on July 19.

[184] The Panel finds that this allegation, which is paragraph 19.a. of the Citation, is established, but notes that it cites only the failure to document the "name, strength, dose, and quantity of furosemide" administered to the Dog on July 16, 2019.

[185] The College submits that this amounts to a breach of Section 2.b. of the General Records Standard by failing to provide an accurate, complete and up-to-date profile of [the Dog] to enable continuity of care.

[186] In addition, the College relies on Section 2.h. of the Companion Animal Standard, which specifies that medical records are required to include:

> 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.

[187] Finally, the College submits that this is a breach of Section 245(2)(b) of the Bylaw, requiring, among other things, that a record be "accurate, complete, appropriately detailed, comprehensible, and properly organized."

[188] The Panel's view is that it is appropriate to make the finding under Section 2.h. of the Companion Animal Standard, which is most specific to the circumstances and adequately reflects the gravity of the event. The language of this provision is tracked in the Citation.

[189] The Panel's view is that this is not a significant continuity of care issue, as it was not clear on the date of the event that there needed to be ongoing use of furosemide, and it was not entirely clear that the Respondent would take over as the Dog's primary veterinarian. Section 245 of the Bylaws, while broad enough to encompass this omission, appears to the Panel to have a broader focus on the quality of records than a single omission. Section 2.b. of the General Records Standard also appears to have a broader focus, with its reference to "profile," and therefore to engage a higher level analysis. While the Panel characterizes this as a glaring omission, in the circumstances we are of the view that this single event does not amount to professional misconduct, and that the finding under Section 2 h. of the Companion Animal Standard is sufficient, subject to what we have to say about the collective effect of the proven allegations in relation to record-keeping.

**b. Dexdomitor**

[190] Setting aside the Respondent's issue estoppel argument for the moment, the evidence is clear that the medical record in relation to the dosage of Dexdomitor was inaccurate in that it signified a dosage that was far higher than what was actually administered, and which the Respondent says would have been fatal. The Respondent relies on the latter fact to assert that it was an obvious error, and on his prior conversation with a College Inspector to support an assertion that the College well knew the source of the error and had the means to calculate the actual dosage.

[191] The Panel does not accept that the Respondent's use of a 40 ml insulin syringe and the inadequacy of a template excuse the error. The expert evidence establishes that the size of the syringe is itself unconventional, and while the Respondent may have been able to perform calculations to adjust the dosage to the instrument, as noted by the expert, without that information or an explanation in the file a subsequent practitioner would have no ready means of ascertaining what dosage was actually administered. The Respondent had the responsibility to ensure that the record was accurate and at very least to explain what he refers to as a "template" error, in his notes on the date in question. He failed to do so.

[192] Where the timing of this event falls in relation to the conversation with the Inspector about the error and a finding of another panel about that same error is not in the view of the Panel relevant to the question of whether on this occasion the medical records fell short of the expected standard. This event related to a different animal on a different occasion, so there is not sufficient identity of parties or circumstances to support a finding of issue estoppel, as the Panel understands that principle.

[193] The error on this occasion at best provided no information and at worst provided misleading and possibly fatal information, for the animal's continuing care. The fact that he may have previously or subsequently placed other animals in similar jeopardy does not assist the Respondent.

[194] The Panel finds that this allegation, paragraph 19.b. of the Citation, is proven; in particular that the Respondent did not document the dose and quantity of Dexdomitor that he administered to the Dog on July 16, 2019.

[195] Whether the Respondent was aware of the need to rectify the record before or after this event or how many other instances of the same error have arisen in relation to other clients are questions that will be relevant on the matter of sanctions.

[196] In relation to the nature of this breach, the College relies on the same three provisions discussed above in relation to furosemide. The Panel notes that the language of the Citation in relation to this issue again tracks the language of Section 2.h. of the Companion Animal Standard, and that appears to be the appropriate provision under which to record a finding of non-compliance in relation to this allegation.

**c. Dental Radiographs on July 16, 2019**

[197] The Citation alleges a lack of notations on July 16, 2019 pertaining to the issue of radiographs on the first visit. In particular, it states, "you did not document … your recommendation … that radiographs be taken during [the Dog's] dental work, or [the Complainant's] response to that recommendation."

[198] The medical record from that date states simply, "x-ray declined." In its submissions, the College says this notation did not sufficiently identify the nature of the x-rays that were discussed or the reasons that they were declined.

[199] Dr. Bajwa's evidence was that he recommended dental and chest x-rays to the Complainant, but that x-rays had been taken at Sullivan and the plan was to obtain those. Dr. Bajwa testified that he did not know whether those included dental radiographs, and he later learned that they did not.

[200] The College points to the evidence of the expert pertaining to the obligation to record a discussion of dental radiographs, in which she stated, "[t]his discussion or a summary of it and the owner's decision should be recorded in the medical record", because such documentation is "important for continuity of care as well as dispute resolution in the event of client concerns or disputes." The expert explained on cross-examination that such a summary should include why X-rays were recommended, which in her view was that they were necessary to diagnose dental disease before proceeding with a cleaning, and a note reflecting that "despite being warned of the risks, the owner declined radiographs."

[201] As pointed out by the Respondent's Counsel in her submissions, the basis of this allegation is record-keeping, not the obligation to discuss, or review, dental radiographs, the reasons for them, or risks or benefits, before the procedure. The Citation does not include an allegation that he did not sufficiently discuss his recommendation with the Complainant. The question is only whether the Respondent failed to make a thorough summary of the conversation he did have.

[202] The Respondent also argues that the Companion Animal Standard pertains to consultations or treatment dates, and that the requirement of notations pertaining to client communications should be considered in the context of the entirety of the record for the occasion. Taken as a whole, he suggests that the nature of the conversation is sufficiently recorded, or implied.

[203] The Panel understands that the conversation with the Complainant related to dental cleaning and polishing, possibly under sedation, but did not include a plan for extraction or anesthesia. The Respondent says it included a recommendation for dental radiographs, as it should have, in the Panel's view. If so, that itself is not documented.

[204] Of more concern is that the single entry does not provide sufficient background to the notation that the Complainant declined the x-rays, because it does not explain her decision to proceed without them. Although the Respondent suggested some urgency to proceeding with the cleaning, it was not an emergency situation. His suggestion that to proceed at that time,

without radiographs, was important confirms that he did not consider radiographs to be essential, and may well not have sufficiently explained their importance to the Complainant. Again, we note that is not the subject matter of this allegation.

[205] The Panel's view however is that the Respondent had an obligation to recommend specifically that dental radiographs be taken, or to recommend that he wait for the Sullivan records, before proceeding with a dental procedure under sedation in this geriatric patient. Even taken as a whole, or viewed in context, there is no suggestion in the records as to what lay behind the simple "x-ray declined" entry. The detail of the communication contained in the records is devoid of any summary and therefore not sufficient to establish what was discussed. The two issues are intertwined, and the Panel is careful not to conclude that the conversation itself was insufficient, but finds that the single notation that the Respondent did make is well below the standard, whatever the extent of the conversation.

[206] The College in its submissions points to Section 2.g.vii of the Companion Animals Standard and submits that the notation fails to include "a summary of the exchange." That standard requires that records include, "g. For each physical and behavioural assessment… vii. The date and (approximate) time of each client communication, the name of the person communicated with, and a summary of the exchange."

[207] The other provision the College relies upon is Section 245(2)(b)(ii) of the Bylaws, that records be "accurate, complete, appropriately detailed, comprehensible".

[208] The Panel's view is that the appropriate provision is Section 2.g.vii. of the Companion Animals Standard. Clearly, any summary of what was discussed in relation to dental radiographs is missing from the record.

**d. Review of Sullivan Radiographs on July 19, 2019**

[209] The College concedes that the record from July 19, 2019 produced by the Respondent at the hearing[20] contains an entry that the Sullivan x-rays were received and reviewed, so paragraph 19.d.i. of the Citation is not proven. The College submits that the notation falls short because it does not include the Respondent's interpretation of the radiographs, as alleged in paragraph 19.d.ii, and therefore, what he did in response to them.

[20] Exhibit 19.

[210] The College points out that the expert evidence supports a view that the record should include the interpretation of any diagnostic procedure, and that the practitioner's conclusion, in this case fluid in the Dog's lungs, should be included in the record, "so that a subsequent veterinarian is aware that the patient has or has had pulmonary edema and is at risk of recurrent or ongoing pulmonary edema and congestive heart failure".

[211] The College submits that such information would be relevant to classifying the Dog's cardiovascular disease, which in turn, according to the expert, would "influence a veterinarian's choice of anesthetic drugs, to avoid using drugs that may cause excessive cardiac depression such as acepromazine or dexmedetomidine", and would cause a subsequent veterinarian to be "very careful about volumes of intravenous fluids administered to the patient."

[212] While the Respondent testified that he concluded the Dog had fluid in his lungs and he continued administering furosemide, the College submits in reliance on the expert opinion that he was required to provide that information in his records, including an explanation of the reason for prescribing furosemide, in order to alert future practitioners to treatment requirements and the risk of recurrence.

[213] Respondent's Counsel submits as follows on this aspect:

> 185. …the prescription for furosemide pills together with the history of cough would leave a knowledgeable reader with the conclusion that Dr. Bajwa observed fluid in the lungs which he sought to address. While the records could be more overt, they are sufficient for a subsequent veterinarian to follow Dr. Bajwa's conclusions and actions. It must also be observed that a prudent subsequent veterinarian would review the x-rays as well for themselves, and would not rely on Dr. Bajwa's interpretation of them.

[214] The misconduct specified by the College in its submissions is, firstly, Section 2.g.vi. of the Companion Animals Standard, which requires a record of, "Results of the diagnostic investigations performed and an interpretation of the results." The College also relies on Section 2.b. of the General Records Standard, failing to provide an "accurate, complete and up-to-date profile" of the Dog to enable continuity of care; and finally, the Section 245(2)(b)(ii) requirements that records be complete and appropriately detailed.

[215] The Panel's view is that it is again important to assess the record in light of the context of the care being provided to the Dog by the Respondent. By July 19, 2019, it would be fair to conclude he had assumed the role of primary veterinarian, taking over from Sullivan, and incorporating the records he received from them into the Dog's continuity of care. While the

Respondent in his testimony and his answers to the Inspector appeared to defer to Sullivan in relation to the reason for prescribing furosemide, the Panel notes that the Sullivan records do not include a prescription for furosemide or a diagnosis of lung problems, based on the same x-rays relied upon by the Respondent.

[216] There is accordingly nothing in the medical record to explain the Dog receiving a furosemide prescription based on the Respondent's review of the Sullivan x-rays. This is compounded by the absence of a note about the furosemide injection on July 16, 2019. If the Respondent believed that the Dog had a lung condition, the state of the record on July 16 would have completely stymied continuing care, had there been another break in providers at that point. As of July 19 there was no further information in support of the prescription, which the Panel agrees resulted in a deficiency in relation to continuing care at that point.

[217] The Panel finds that this allegation is proven; specifically that the Respondent failed to document his interpretation of the Sullivan radiographs, including that the Dog had fluid in his lungs. The most applicable allegation in the view of the Panel is Section 2.b. of the General Records Standard. This is a continuity of care issue, and the other two provisions relied upon by the College are less apt, in the Panel's view.

**e. Sedation on July 19, 2019**

[218] The allegation in paragraph 19.e. that the Respondent inaccurately documented that the Dog was sedated for the purpose of treating a wound on July 19, 2019, relates to the fact that the Respondent's plan for the Dog's care that day included sedation, and there is no subsequent notation of the use of a sedative or a change in the decision to use it.

[219] The College submits that the record would leave a reasonable practitioner confused as to whether sedation was administered, as demonstrated by the Inspector's questions and the opinion of the expert, which was that given the plan that was set out, she would assume that sedation was administered.

[220] As pointed out by Respondent's Counsel in cross-examination of the expert, the record of treatment reflects that the wound was treated by clipping the area and flushing with saline, followed by cautions about infection. The expert agreed that the record was not inaccurate, if no sedation was given, although she described it as, "unclear."

[221] The Panel is of the view that failure to note this kind of change of direction in a plan, or in particular a clinical decision not to administer a sedative when it appears it is not required, does not fall over the line in terms of non-compliance with Practice Standards. More specificity would have been preferable, and the Panel is hopeful that the Respondent will receive the message from this experience that it is never wrong to provide more information and that notes this terse do not serve him well.

**f. Tartar on July 19, 2019**

[222] Similarly, the erroneous inclusion of the existence of "tartar" in addition to the presence of gingivitis on the second visit does not concern the Panel to the extent of a finding of professional non-compliance. It may be that the computer or template process for recording one without the other needs to be corrected, and given the length of time and the Respondent's disciplinary experience the Panel expects he will have been motivated to rectify the problem.

**g. Dental charting**

[223] The absence of a dental chart as alleged under paragraph 19.g. of the Citation is admitted by the Respondent, and explained by a belief on his part that it was not required for dental cleaning and polishing. The question of whether its exclusion was a breach of Practice Standards turns to some extent on the proper interpretation of the applicable Standard. The Panel agrees with Respondent's Counsel that the expert's experience does not include practice in BC at the relevant time, so her evidence elicited on cross-examination, to the effect that a chart is required in these circumstances, is not determinative.

[224] The Respondent says firstly that the College has not established that there was a requirement for charting in the published standards at the time when this procedure was undertaken.

[225] The Dentistry Standard currently available on the CVBC website[21] contains a comment under its title that it was published in October 2018 and revised in May 2020. That comment is footnoted as follows: "Council approved the 'Professional Practice Standard: Veterinary Dentistry (Companion Animals)' on October 12, 2018; modification approved May 29, 2020."

[226] In addition, as pointed out by the College, at the end of the Standard is the following section:

[21] https://www.cvbc.ca/wp-content/uploads/2020/07/Companion-Animal-Dentistry-Standard-Revision-200529.pdf

> Versions
> October 2018 – original version approved by Council and published
>
> May 2020 – inclusion of definitions for surgical and non-surgical extractions, and alveolectomy."

[227] The Panel is satisfied that the charting requirement was in place prior to the date of treatment in this matter.

[228] The College says that the omission of a chart in this case amounts to non-compliance with Section 245(b)(ii) of the Bylaws, Section 2(b) of the General Records Standard, Section 2(g)(ii) of the Companion Animal Standard, and Section 6 of the Dentistry Standard.

[229] The allegation in the Citation in relation to this issue specifies a failure to use "appropriate dental charting," and therefore tracks the wording of Section 6 of the Dentistry Standard, which reads simply, "Uses appropriate dental charting." The allegation does not relate to general deficiencies in the medical records, i.e., the allegation is not that specific dental information is lacking, simply that a chart was not produced.

[230] The College bases its submissions on the evidence of the expert, who stated emphatically that "normal" findings should be recorded in addition to abnormal ones. The Respondent says the state of the record, reflecting no extractions, and noting tartar and gingivitis, was sufficient as a record relating to the findings available on a cleaning and polishing procedure. In relation to assessing the industry standard as to what might be "appropriate" dental charting, the Panel notes that the medical records of Sullivan included dental charts for two separate dates.[22]

[231] While the Panel accepts that dental charting standards may have changed over time, it is of the view that at a bare minimum, appropriate charting requires documenting the presence or absence of teeth, and what is done and/or not done, on any occasion when a dental service is performed. There is no basis in the evidence for a suggestion that a procedure such as this, a cleaning performed under sedation, which must of necessity have involved an examination, was exempt from the need for a chart to be prepared. To the contrary, the wording of the Standard suggests that dental charting is required for any dental services, and that it must also be

[22] Exhibit 8, p. 12-13/211

appropriate to the services performed. In addition, this is not a case of inadequate dental charting. There is no chart at all in the SAH records, as contrasted with those of Sullivan.

[232] Again, the Panel is mindful that the expert does not have practice experience in BC and that the Standard requiring the use of charting appears to have been a relatively new development at the time of these events. Nonetheless, the Standard was in place well ahead of these events, and had apparently been adopted by other BC practitioners. It was the Respondent's responsibility to understand those requirements and adhere to them.

[233] The Panel notes that based on his evidence, it appears to be as yet unclear to the Respondent whether a dental chart is required for a "simple cleaning." The Panel would have expected that by the time of his testimony, whatever his understanding was at the time of these events, that would have become his consistent practice.

[234] The Panel finds that the Respondent's failure to prepare a dental chart for the Dog is a breach of Section 6 of the Dental Standard.

**h. Professional Misconduct**

[235] In paragraph 24 of the Citation, the College alleges that the conduct set out in paragraph 19, which encompasses items a. through g. above, constitutes professional misconduct. In its submissions, the College urges the Panel to find that based on all the breaches "identified above" (which refers to all of the allegations in the Citation), Dr. Bajwa committed professional misconduct pursuant to s. 61(1)(b)(v) of the Act.

[236] The Panel has already made a finding of professional misconduct in relation to the single allegation pertaining to lack of informed consent. It has found that the allegations in relation to anesthesia and sedation are not proven. The Panel notes that the Citation does not contain an allegation that the totality of the breaches contained in it amount to professional misconduct. Paragraph 24 pertains only to the medical records allegations. The remaining question therefore is whether the cumulative effect of the breach findings in relation to medical records is a sufficiently serious departure from the Bylaws and Practice Standards to amount, additionally, to professional misconduct.

[237] The Panel is of the view that, given the number of deficiencies in the Respondent's records, and the nature of them, the Respondent's cumulative departure from the established, and published, Practice Standards and Bylaws in relation to the medical records pertaining to

the Dog is sufficiently marked to amount to professional misconduct. There will be a finding of professional misconduct under paragraph 24.

## H. Conclusion

[238] The Panel's findings in relation to the allegations in the Citation are as follows:

| | |
|---|---|
| Paragraph 2, 3 | Breach of CVBC Bylaw Section 211(2) as per para. 3 |
| Paragraphs 4 – 6 | Breaches not recorded |
| Paragraph 7 | Professional Misconduct proven |
| Paragraphs 8 – 9 | Breaches not recorded |
| Paragraphs 10 – 18 | Not proven |
| Paragraph 19.a.,22 | Breach, Section 2.h. of Companion Animal Standard |
| Paragraph 19.b.,22 | Breach, Section 2.h. of Companion Animal Standard |
| Paragraph 19.c.,22 | Breach, Section 2.g.vii Companion Animal Standard |
| Paragraph 19.d.,21 | Breach of Section 2.b. of General Records Standard |
| Paragraph 19.e. | Not proven |
| Paragraph 19.f. | Not proven |
| Paragraph 19.g, 23 | Breach of Dentistry Standard |
| Paragraph 20 | Breach not recorded |
| Paragraph 24 | Professional Misconduct proven |

[239] The matter will proceed to submissions on appropriate measures under Section 61(2) of the *Act*. The Panel will ask the Registrar to set a schedule for submissions in consultation with Counsel.

[240] The Panel gives notice to the Respondent, pursuant to section 61(6)(b)(ii) of the Act, of his right to appeal this decision to the Supreme Court of British Columbia under section 64 of the Act. The Panel also directs the College Registrar to publish this decision as required under section 68(1)(a) of the Act.

Carol Baird Ellan

Carol Baird Ellan, K.C., Chair

Teresa Cook

Dr. Teresa Cook

Catharine Shankel

Dr. Catharine Shankel