

BEFORE THE PROFESSIONAL CONDUCT COMMITTEE OF THE
ROYAL COLLEGE OF VETERINARY SURGEONS

RCVS

v

JEMMA LOUISE FRANCIS RVN (Respondent)

DECISION OF THE DISCIPLINARY COMMITTEE ON FINDING OF FACTS AND
DISGRACEFUL CONDUCT

1. The Charges (as amended)

1.1 The Respondent faced the following charges:

That, being registered in the Register of Veterinary Nurses, and whilst in practice at the Rowe Veterinary Group, Bristol (“the practice”), you:

1. *In relation to buprenorphine*

(a) On or around 15 January 2021 took from the practice one box of buprenorphine and/or

(b) On or around 9 June 2022 took from the practice:

(i) approximately fifteen boxes of buprenorphine; and/or

(ii) a number of vials of buprenorphine

(c) On or around 27 June 2022 took from a cupboard in the preparation room at the practice one box of buprenorphine;

2. *In relation to your conduct at 1(a) and/or (b) and/or (c) above, you*

(a) were dishonest; and/or

(b) were not acting in accordance with instructions from a veterinary surgeon and/or in accordance with a valid prescription; and/or

(c) Failed to record, accurately or at all, the amounts of buprenorphine taken from the practice and/or practice’s cupboard.

And that in relation to the above, whether individually or in any combination, you are guilty of disgraceful conduct in a professional respect.

- 1.2 Ms. Curtis appeared on behalf of the Council; Ms. Maqboul appeared on behalf of the Respondent.
- 1.3 At the outset of the hearing the Committee amended the Charges on the application of Ms. Curtis. Details of that application and the amendments are set out at Annex 1
- 1.4. The Respondent admitted Paragraph 1 (c) of the amended Charges. She denied the remainder of the Charges.

2. Background

- 2.1 The Respondent had been employed as a Registered Veterinary Nurse at the Bradley Stoke branch of the Rowe Veterinary Group (“the practice”) since 2015. The practice is a busy 24 hour emergency veterinary hospital, employing a number of veterinary surgeons, registered veterinary nurses and other staff. In November 2021 the Respondent was promoted to Deputy Head Nurse.
- 2.2 The Charges arise out of three separate occasions on which it is alleged that the Respondent took a box or boxes and/or vials of Buprenorphine without authorization. In so doing she is alleged to have behaved dishonestly and/or to have acted without instructions or a valid prescription from a veterinary surgeon and/or to have failed to record the amounts of buprenorphine taken from the practice. Buprenorphine, often branded as “Buprecare” or “Vetergesic”, is a controlled drug within Schedule 3 of the Misuse of Drugs Act 1971. It must be prescribed if it is to be used. It is an opioid-based medication. The practice mainly used the brand known as Buprecare, although witnesses sometimes referred to it interchangeably as Vetergesic. The medication was packaged in boxes of 5 ml. Each box contained five separate vials of 1 ml. each. Deliveries would take place two or three times a week and the medication was in frequent use.
- 2.3 The first of the three occasions is alleged to have occurred on 15 January 2021 when the Respondent was seen disposing of a packet, subsequently considered to be an opened box of Buprecare, in a bin belonging to the practice but situated in the car park outside the building.
- 2.4 The second occasion is alleged to have occurred on 9 June 2022 when some 15 boxes of Buprecare were thought to have gone missing and the Respondent, who was by then on maternity leave, had visited the practice on that day. She had requested and received a verbal prescription for buprenorphine for one of her dogs. The Respondent was suspected of having removed the boxes of buprenorphine. An internal investigation was instigated.
- 2.5 The third occasion is alleged to have occurred on 27 June 2022, when the Respondent was still on maternity leave and visited the practice again. On this occasion she was seen to remove a box of Buprecare from the cupboard in which it was kept and tuck it into her leggings. When challenged by a colleague about what

she was doing she said that she needed it for her dog. She asked her colleague not to tell anyone, but the colleague in question reported the incident to management.

3. The Evidence

15 January 2021

- 3.1 Mrs. MP, the practice manager, told the Committee that on 15 January 2021 she went outside to the car park for a smoke and, coincidentally, followed the Respondent who had come from the lavatories. She said that she saw the Respondent walk across the car park to the large metal bins, about 20 metres away from where Mrs. MP was standing, remove something from her pocket and put it in the bin. The Respondent, she thought, had been unaware of her presence, but saw her as she returned from the bin and seemed surprised. After the Respondent had left the scene, Mrs. MP went to check the bin and saw an opened packet of Buprecare lying on top of the black bin bags in the bin.
- 3.2 Mrs. MP reported what she had seen to Dr TB, the practice's clinical director, and subsequently asked the Respondent what she had put in the bin. The Respondent told her it was an empty cigarette packet. Mrs. MP produced a file note which she had made in relation to this incident but took no further action in relation to the Respondent. Her file note states, "*MM and TEB reviewed this will advise TS so we can all be mindful of this over the coming weeks.*" MM is a reference to Mrs. MP, who was prior to her marriage known as Ms. MM, TEB is a reference to the practice's clinical director and TS is a reference to the Head Nurse.

9 June 2022

- 3.3 Ms. TS, RVN and Head Nurse, explained the system by which deliveries of Buprecare were recorded and stored at the practice. Buprenorphine has to be stored securely, and the practice had allocated a lockable cupboard for its storage. The cupboard also contained other medications. Ms. TS said that veterinary surgeons and veterinary nurses would routinely be able to access the cupboard which, in any event, was not always locked. She thought that reception staff would probably also be able to obtain details of the combination lock. There were also occasions when the cupboard was full and Buprenorphine would then be stored insecurely on top of the cupboard.
- 3.4 A log was provided which was intended to record the removal of each box of Buprecare from the cupboard and the level of stock remaining so that a running count of the stock was available. However, Ms. TS accepted that this recording system was reliant on every member of staff properly updating the log sheet on every occasion on which they needed to remove Buprecare. She accepted that the log sheets produced to the Committee showed multiple, gross, arithmetical errors. To give just one example to which she was directed, entries for 18 April 2022, which showed 44 boxes of Buprecare in the cupboard, recorded, on the following date, an addition of 20 boxes which was then recorded as a resultant total of 58 boxes.
- 3.5 On 9 June, Ms. TS was asked by another registered veterinary nurse, Ms. SP, to check a count of Buprecare boxes that the latter had carried out. Ms. SP had counted 164 boxes, which seemed more than usual. She had included in her count boxes on

top of the cupboard. Ms. TS was uncertain as to the exact time she did her count, either between 8.00 and 9.00 am or at 10.00 am (she thought the latter more likely) and she confirmed Ms. SP's total of 164 boxes. She told the Committee that another count was carried out at 13.30 by her colleague, Ms. AC, who recorded 148 boxes of Buprecare. There were no entries on the log to explain the disparity.

- 3.6 Ms. AC, RVN, told the Committee of her count at 13.30. She asked a colleague, either Ms. SP or Ms. TS, to confirm her count. Her count was confirmed, so that 16 boxes of Buprecare appeared to have gone missing. She made enquiries in the practice to see if any colleagues had omitted to record their removal of Buprecare from the cupboard but no explanation was forthcoming. Subsequently she became aware that interviews with staff were carried out to investigate the matter.
- 3.7 Mrs. SP, RVN, confirmed that on the morning of 9 June she went to the cupboard to obtain some buprenorphine and, having removed what she needed, counted 164 boxes remaining. This number included some boxes stored on top of the cupboard. She was subsequently approached by Ms. AC with the news that 16 boxes of buprenorphine had gone missing and she helped Ms. AC to make enquiries at the practice to see if they could be traced.
- 3.8 Dr. DG, MRCVS, told the Committee that she was in the practice when the Respondent "popped her head" out of the prep room door and asked if she could have some Vetergesic for her dog. Although the Respondent was on maternity leave at this time, Dr DG remembered that she used to visit the practice regularly with her baby. The Respondent told her that her dog had ripped a nail. Dr. DG thought the request for Vetergesic was reasonable and told her that she could have it. She said that she assumed that the Respondent, as an experienced RVN, was familiar with the dosage requirements and would calculate and draw up the required dose and record the amount taken in the dog's clinical notes. She accepted that it was her responsibility to ensure that the prescription she had given verbally was reflected in the patient notes.
- 3.9 Dr. DG said that this was the only occasion on which she had been asked by an RVN to prescribe a one-off Vetergesic injection and she did so on the basis that the Respondent was a trusted and experienced senior veterinary nurse. She said that Vetergesic was not routinely prescribed for out-patient use and would only be administered by injection to dogs. She said that, occasionally, injectable buprenorphine would be prescribed for home use to veterinary surgeons or nurses who were known to be familiar with the drug and capable of giving injections.
- 3.10 Later on the same day she was called to an emergency practice meeting and told that a large quantity of Vetergesic had gone missing. Following the meeting, she told Ms. TS that the Respondent had come in earlier that morning and asked for some Vetergesic. She did not know how much the Respondent had taken but, assuming a large dog was involved, thought that about 3 ml would be required, i.e. nowhere near the amount that had gone missing, namely approximately 15 boxes.
- 3.11 Dr TB ,MRCVS, said that he was informed on 9 June 2022 that a significant quantity of Buprecare was missing from the practice. He convened a meeting of staff and stressed the gravity of the situation. After the meeting he learned that the

Respondent had been in the practice that day and, he understood, had received a prescription of Buprecare for her dog "Red". This was not reflected in "Red's" records, nor in the records for the Respondent's other dog, "Sid". He spoke to the Respondent by telephone that evening and the Respondent told him that she had forgotten to charge the Buprecare to "Red's" account but that she had simply drawn up a 3 ml dose and taken it out of the practice. She denied any involvement with the missing boxes of Buprecare.

27 June 2022

- 3.12 Mrs. AC told the Committee that she was in the prep room at the practice when the Respondent came in. She saw her slightly open the cupboard in which Buprecare was stored and take a box and tuck it into the top of her leggings. Mrs. AC asked her what she was doing but did not receive an immediate answer to her question. Mrs. AC said that she then told the Respondent that she had seen what she had done and the Respondent immediately started apologising and said that the medication was for her dog and she did not want to ask for it because the dog needed a large volume and she was concerned about the ongoing investigation.
- 3.13 Mrs. AC said that the Respondent then dropped the box into Mrs. AC's scrubs pocket and asked her not to tell anyone about it. Mrs. AC said that she would have to inform management. The Respondent returned a few minutes later with a prescription for a dose of Buprecare, issued by Dr LK, and Mrs. AC recalled that she drew up 3.3 ml of Buprecare into a syringe and put it into a medication box for the Respondent. Mrs. AC reported the incident on that day to Mrs. NB MRCVS.
- 3.14 Mrs. NB confirmed that the matter was reported to her by Mrs. AC at around 19.30. Mrs. NB had been present a little earlier when the Respondent had asked Dr LK if she could prescribe some buprenorphine for her dog "Sid". She recalled Dr LK asking whether the dog was really sore and the Respondent saying to Dr LK some such words as that he was "really screaming in pain and it's not nice to see".
- 3.15 Dr. LK, MRCVS, said that on 27 June 2022 she had prescribed some pain-relieving medication, in the form of tablets and an oral syrup, for Sid. The Respondent said that she wanted some stronger pain relief for the dog and asked her if she could prescribe a dose of Vetergesic. Dr. LK prescribed a dose of Vetergesic which consisted of 3.3 ml and was contained in a syringe.
- 3.16 The Committee also received in evidence an agreed witness statement from Ms. FK, MRCVS, which confirmed that she had been treating the Respondent's dog, Sid, for lameness in his left hind limb since 25 June 2022. She had prescribed Metacam, an anti-inflammatory drug, given for pain relief, on that day and received a further communication from the Respondent on 26 June 2022 that Sid was still quite lame and screaming when lying down or turning. On 27 June 2022 at about 17.28 Ms. FK received a further message from the Respondent to the effect that Sid was still in pain and she replied to the effect that she would prescribe medication. She told the Respondent that she was not at the practice but that Dr.LK was there if the Respondent wanted to obtain medication that night. The Respondent indicated that she would go to the practice to obtain some Pardale (a pain-relieving medication)

and at 19.14 she received a communication from the Respondent to say that she had asked Dr LK for a “*Vetergesic one-off to see if it helps as well*”.

The internal investigation and subsequent disciplinary hearing

- 3.17 Dr. TB told the Committee that both he and Mrs. MP were concerned that the Respondent had not followed the appropriate protocol when she obtained Buprecare on 9 June 2022 and were not satisfied with her account of matters. They therefore decided to open a formal investigation and invited the Respondent to a meeting on 30 June 2022. By that time Mrs. MP had reported the matter to the police but the police decided to take no further action. On 27 June 2022, Dr. TB was informed of the incident that had occurred on that day. His understanding of that incident was that the Respondent had attempted to conceal a box of Buprecare in her leggings and, when confronted about this, had asked Mrs. AC not to say anything.
- 3.18 At the meeting of 30 June 2022 Dr. TB raised a number of concerns, including concerns relating to the incident that had occurred in January 2021, and, at the close of the meeting, said that he was not satisfied with the explanations provided by the Respondent. A disciplinary hearing was convened.
- 3.19 Mr. D. N-H, MRCVS, participated in a disciplinary hearing on 8 July 2022. He produced the Notes of the Disciplinary Meeting and confirmed that the matters taken into account in reaching the decision to dismiss the Respondent from her employment were those stated in a letter sent to the Respondent on 12 July 2022, namely:
- “*That you did not follow the correct operating procedure in regards to obtaining medication for your pet on 9 June 2022*
 - *That on the 27th June 2022, there was a witness to you taking a box of Vetergesic (Buprecare) from the cupboard and concealing it within your clothes .Following confrontation, you requested that the witness was not to say anything to anyone”.*

4. Submission of No case to Answer

- 4.1 At the close of the College’s case, Ms. Maqboul indicated that she intended to make a submission of no case to answer, as allowed by Rule 12.1 of the *Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Procedure and Evidence) Rules Order of Council 2004* (the 2004 Rules). Both parties were allowed time in which to prepare detailed written submissions. The Committee has received these submissions, for which it is grateful, and has considered them carefully. No useful purpose would be served by repeating all the detail of these submissions here.
- 4.2 There was no disagreement between Counsel as to the legal approach to be adopted and the Committee accepted the advice of the legal assessor. The question for the Committee at this stage, applying the approach in *R v Galbraith* [1981] 1 WLR 1039 and *R v Shippey* [1988] Crim LR767, was whether the College had produced evidence upon which the Committee could (not would) find the Charges in question proved.

Charge 1 (a)

- 4.3 Ms. Maqboul submitted that the evidence relied upon in respect of this charge was solely that of Mrs. MP, that her evidence lacked probative value and was speculative at best.
- 4.4 Ms. Curtis submitted that the evidence of Mrs. MP was compelling.
- 4.5 The Committee has concluded that the submission of no case to answer fails in respect of this charge. This is a matter in which the reliability of, and the appropriate inferences to be drawn from, the evidence of Mrs. MP will need to be resolved in due course, but at this stage the Committee does not consider that her evidence was such that no properly directed Committee could find Charge 1 (a) proved.

Charge 1 (b) (i)

- 4.6 Ms. Maqboul submitted that no witness saw the Respondent with 15 boxes of buprenorphine. She also relied upon the fact that the cupboard in which buprenorphine was kept, and the way in which it was stored was insecure, that the records in relation to the removal of buprenorphine were manifestly unsatisfactory, and that the practice's investigation into this issue was inadequate.
- 4.7 Ms. Curtis submitted that whatever the general deficiencies in the record, the College had produced satisfactory evidence that approximately 15 boxes of buprenorphine had gone missing on 9 June 2022 when the Respondent was visiting the practice. She also relied upon what, she submitted, were material inconsistencies in the account given by the Respondent in relation to her need for some Vetergesic on that day, and also submitted that the Committee could take into account the subsequent events of 27 June 2022 as showing a propensity on the part of the Respondent to take Vetergesic without authorisation.
- 4.8 The Committee has concluded that there is no case to answer in relation to this charge. The evidence of the logs in relation to buprenorphine taken from the drugs cupboard was so unsatisfactory that the Committee was reluctant to place any reliance upon them. As for the counts carried out on 9 June 2022, it was not clear whether all of the witnesses involved were counting buprenorphine on top of the cupboard as well as within it. And, in any event, there was no evidence to link the Respondent with the disappearance of approximately 15 boxes of buprenorphine. The Committee did not consider that whatever happened on 27 June 2022 (involving a single box of buprenorphine) shed any light upon the alleged disappearance of 15 boxes on 9 June 2022.

Charge 1 (b) (ii)

- 4.9 Ms. Maqboul relied upon the inadequacies of the logging system and submitted that there was no evidence as to the quantity of vials alleged to have been removed.
- 4.10 Ms. Curtis relied upon the evidence of Ms. TS who said that when she spoke to the Respondent, at about 5 pm on 9 June 2022, the Respondent said that she had taken a box of Vetergesic (which would include a number of vials).
- 4.11 The Committee noted that Ms. TS had said that, when she asked the Respondent whether she had taken a box or a syringe, the Respondent replied, "*that she had*

taken a box” and, on it being pointed out that this would amount to 5 ml of Vetergesic, she is alleged to have answered something along the lines of “*look I just took a box.*”

- 4.12 The Committee has concluded that there is evidence upon which the Committee could find this charge proved.

Charge 2

- 4.13 In the light of its conclusions in relation to Charge 1, the Committee rejects the submission of no case to answer in relation to Charges 2 (a) and 2(b) insofar as they relate to Charge 1(a) and 1(b) (ii). Charges 2(a) and 2(b) require the Committee to evaluate the factual situation represented in Charges 1(a) and 1(b) (ii) and at present there is evidence upon which the Committee could find those factual situations to be proved and could come to the conclusions invited at 2 (a) and/or 2(b).
- 4.14 In relation to charge 2(a), the factual situations, at Charge 1 (a) and 1 (b) (ii), if proved, are, in the Committee’s assessment, capable of giving rise to an inference of dishonesty.
- 4.15 In relation to Charge 2 (b) the Committee has noted that, on the evidence heard so far, the verbal prescription issued by Dr. DG was understood by her to relate to the required dose of Vetergesic and the prescription issued by Dr LK was issued after the Respondent had taken a box of buprenorphine from the cupboard.
- 4.16 The Committee accepts the submission of no case to answer in respect of Charges 2 (a) and 2 (b) insofar as they relate to the conduct alleged at Charge 1(b) (i). As the factual situation represented in that charge has fallen away, it follows that the evaluation required in relation to that factual situation has also fallen away.

Charge 2 c

- 4.17 Ms. Maqboul submitted that the duty to record the amount of buprenorphine taken from the practice lay upon the veterinary surgeon who had issued a prescription.
- 4.18 Ms. Curtis submitted that as Deputy Head Nurse at the practice and taking into account the Respondent’s practice responsibilities with regard to controlled drugs, the Respondent had a responsibility to record any buprenorphine that she removed from the drugs cupboard.
- 4.19 The Committee has heard evidence from a number of RVN’s and from Dr TB about the system set up to monitor the removal of buprenorphine from the drugs cupboard and about the Respondent’s responsibilities within the practice. Whatever the deficiencies in the way the system operated in practice, the Committee has concluded, that there is evidence at this stage to suggest that there was a responsibility upon the Respondent to make a record of buprenorphine removed from the practice and/or practice’s cupboard.
- 4.20 Accordingly, there remains a case to answer in respect of Charge 2 (c) insofar as it relates to Charges 1 (a), 1 (b) (ii) and 1 (c).
- 4.21 There is no case to answer in respect of Charge 2 (c) insofar as it relates to Charge 1 b (i).

Summary

- 4.22 The consequence of these conclusions is that there is **no case to answer** in relation to **Charge 1 b (i), Charges 2 a and b insofar as they relate to Charge 1 b (i) and Charge 2 c insofar as it relates to Charge 1 b (i).**
- 4.23 There is a case to answer in relation to the remaining charges.
5. The Respondent's evidence.
- 5.1 The Respondent gave oral evidence. She began by referring to two health conditions which, she said, made it extremely inadvisable for her to take any drugs other than those which were medically prescribed. She said that when she was on maternity leave, from April 2022 onwards, she would visit the practice for social reasons and to get herself out of the house. She thought she visited every couple of weeks or so. She was very friendly with Ms. TS, Head Nurse at the practice, with whom she had worked closely.
- 5.2 She herself had been given the responsibility of improving the practice's systems in relation to the storage of Schedule 2 Controlled Drugs, in particular methadone and ketamine.
- 5.3. In relation to the storage of buprenorphine, she said that her particular responsibility was to ensure there was a current log sheet on the cupboard door and to file completed log sheets. She said that if vials of buprenorphine from a box had not been used, they were often left on the side and there was no system in place to record what happened to them. The logging system only related to boxes of buprenorphine. Lots of people within the practice could access the cupboard in which buprenorphine was kept and when buprenorphine was removed it was often not "signed out". She also said that if the team upstairs at the practice required buprenorphine because their stock had run out, they would on occasion take some from the cupboard downstairs without recording what they had taken.
- 5.4. In relation to the events of 15 January 2021, the Respondent said that she had gone to have a smoke in the car park at about 11.00 am and had then visited the toilet. On leaving the toilet she went to get some chewing gum from her bag and realised that she had an empty cigarette packet in the pocket of her scrubs so she decided to walk through the back door and put the packet in the recycling bin in the car park. She said that the car park was full and that the bin in which she placed her cigarette packet contained loose recycling, not black bin bags. She said there were two recycling bins, with red covers, and two bins for ordinary waste. The bins themselves were of the type supplied for industrial use. On returning from the bins, she saw Mrs. MP near the back door. She said she was not surprised to see her as she smoked there frequently. About 25 minutes later she was asked by Mrs. MP what she had put in the bin and she said it was an empty cigarette packet. She said Mrs. MP then said "ok, that's fine, I don't want to let my mind run away with me". The Respondent described this as an amicable exchange and added that, when she successfully applied for the post of Deputy Head Nurse at the practice in the autumn of that year,

Mrs. MP and Dr. TB were on the interview panel which appointed her. No concerns were apparently raised about whatever had happened in January 2021.

- 5.5 In relation to the events of 9 June 2022, the Respondent said that “Red”, one of her dogs, had torn a nail and she visited the practice to retrieve her artery forceps so that she could remove the nail. When there, she was asked by someone whether she was going to give “Red” any pain relief and thought to ask for some Vetergesic. She asked Dr DG whether she could have some Vetergesic. She felt confident she mentioned that the medication was for “Red” as “Red” was already prescribed Galliprant and so could not have Metacam (an alternative pain-relieving medication). After Dr. DG had authorized Vetergesic, she got a box from the cupboard and asked Ms. AC to hold her baby while she drew up the appropriate dose in a syringe. She said that she broached three vials and left two unopened vials on the side. She then left the practice. She said that she did not sign the medication out as she was without a pen.
- 5.6 The Respondent said that she received a telephone call from Ms. TS at about 5 pm on the same day. The Respondent was shown a passage from an interview with Ms. TS, conducted by Mrs. MP, on 10 June 2022. The handwritten record is in the following terms: *“TS phoned JF and she answered little sharp. “Hello you been in for vet”? JF replied yes and TS asked how much she said 3 mls. TS asked how she took vials or syringe. JF said “No, I took a box”. TS repeated “that’s 5 ml, TS said she replied “look I took a box.” She said “Why, what’s the problem” TS said we just had some go missing”*. The Respondent said that she had never said to Ms. TS that she had taken a box out of the practice. She maintained that she had said that she took a box out of the cupboard.
- 5.7 In relation to the events of 27 June 2022, the Respondent said that she had visited the practice at around 18.00 because her dog, “Sid”, was lame and in pain and she was looking to obtain more pain relief as the Metacam that had been prescribed was not proving to be sufficient. She obtained a prescription for some Pardale pain-relieving medication, as well as more Metacam, from Dr LK, who was in the practice at the time. She obtained this medication from the pharmacy and went into the prep room where she had left her baby with Ms. AC. While there, she thought that she might give “Sid” a one-off injection of Vetergesic to settle him and, by this time holding her baby, opened the cupboard and took a box of Vetergesic. She put it in the top of her leggings as she had no pockets and no other way of carrying it. She demonstrated that half of the box would have been visible above the waistband of her leggings.
- 5.8 She said that she panicked when asked by Ms. AC what she was doing. She said that she asked Ms. AC to come to the nearby cattery area to speak about it because the prep room was filling up with people. She asked Ms. AC not to say anything because she wanted to speak to Mrs. MP first. She denied that she apologised immediately and denied that she had said anything about not wanting to ask for Vetergesic because “Sid” needed a big volume of the medication. She said that she was worried because she knew there was an ongoing investigation and she felt that she was suspected. She realised that she had done something wrong by taking the Vetergesic from the cupboard without first receiving a prescription. She said that she

realised that she had dealt with the whole situation very badly. She went on to obtain a prescription for the Vetergesic from Dr LK and the required dosage was drawn up by Ms. AC. The dosage was charged to “Sid’s” account.

- 5.9 When questioned about a text she had written to Ms. TS after the event which stated *“I’ve just got some pardale more Metacam and a vetergeisc (sic) injection for him to see if it helps as per Phoebe I’ll message her and ask re ct x”* she said that she had not intended to suggest that “Phoebe” had prescribed Vetergesic and that what she had meant to say was *“As for Phoebe, she would message her and ask her whether she wanted to x-ray Sid or do a CT scan”*. “Phoebe”, Dr PK, a veterinary surgeon at the practice, had been advising her about appropriate treatment for “Sid” over the previous couple of days. The wording of the text as it came out, she maintained, was just an example of the way in which a message could become misinterpreted due to an absence of punctuation in the course of casual texting between friends. She pointed out that it would be apparent from “Sid’s” clinical records that it was Dr LK who had prescribed Vetergesic.

6. Findings of fact

- 6.1 Both parties provided helpful and detailed written submissions which the Committee has considered.
- 6.2 The Committee accepted the advice of the legal assessor, who reminded the Committee that it must be sure before finding any of the facts in dispute proved. The Committee was also reminded of the proper approach to issues of dishonesty as clarified in *Ivey v Genting Casinos* [2017] UKSC 67 and of the potential relevance of the Respondent’s good character, particularly in relation to the allegation of dishonesty, at this stage of the proceedings.

Charge 1 a: *On or around 15 January 2021 took from the practice one box of buprenorphine;*

- 6.3 The Committee was faced with a significant conflict of evidence in relation to this allegation. The Committee noted that the available evidence did not establish whether the box which Mrs. MP said she saw in the bin was empty, or still contained buprenorphine. All that she could say was that it was open, the “lip” at one end visibly protruding. She did not examine the box, either immediately or later that day. In the Committee’s assessment it was clear, from the type of box involved, that it would be impossible to tell whether the opened box still contained anything within it or not, and this was indeed the evidence of Mrs. MP.
- 6.4 In addition to the different accounts given as to the particular object (cigarette packet or buprenorphine box) placed in which bin (recycling or general refuse), there was a significant conflict between the evidence of Mrs. MP and that of the Respondent in relation to whether the car park was full or not at the time. This was potentially important as the presence of vehicles, according to the plan with which the Committee was provided, may have impeded a clear line of sight between the back door of the practice, close to which Mrs. MP was standing, and the bins themselves. The Committee was told that the part of the car park between the back door and the bins was reserved for staff parking and it seemed more likely that this would be full at around 11.00 am than empty, though there was some question as to whether the

ambulance bay also located in this area was empty at the time. A full staff car park was a scenario which was more consistent with the Respondent's evidence than with that of Mrs. MP.

6.5 The Committee also had some regard to the uncontested evidence it had heard in relation to the way in which buprenorphine was treated at the practice. It was clear that there was, in 2021, an extremely relaxed attitude towards the custody and management of this medication. The Respondent was a senior veterinary nurse at the time, with uninhibited access to the cupboard in which buprenorphine was stored. While the College was not required to prove any specific purpose in relation to the conduct which it alleged, it remained the fact that there was no credible explanation for the Respondent seeking to dispose of a box (whether containing buprenorphine or not) in the way suggested by the Charge. Had the Respondent wished to steal buprenorphine from the practice there was nothing in the evidence which the Committee had heard to suggest that she would not have been able to have left the practice with buprenorphine in her possession. Equally, there was a recycling bin in the practice area known as the "bus stop" into which the box could presumably have been placed and, again, there was nothing in the evidence to suggest that this would have caused anyone to notice that there was anything amiss.

6.6 The Respondent was cross-examined carefully about her movements after she had finished smoking her cigarette in the car park and, in particular, about why she had not chosen to dispose of the empty cigarette packet which, she said, she then had in her possession immediately, there and then, rather than after she had visited the toilet. This would no doubt have been a quicker and more efficient way of disposing of the cigarette packet but the Committee did not regard the fact that this did not happen and that the Respondent had decided to revisit the bins in the car park after she had visited the toilet to be a matter of any great significance and certainly not such as to undermine the credibility of the account given by her. The disposal of unwanted packaging does not always happen at the first available opportunity and, in the Committee's judgment, there was nothing particularly remarkable about the Respondent deciding to dispose of an empty cigarette packet in the way she says she did after she had left the toilet.

6.7 Taking all this into account, the Committee is not sure that the Respondent took from the practice one box of buprenorphine as alleged in this Charge.

6.8 Charge 1 (a) is therefore **Not Proved**. It follows that those parts of Charge 2 which relate to Charge 1 (a) are also **Not Proved**.

Charge 1 (b) (ii) *On or around 9 June 2022 took from the practice: a number of vials of buprenorphine.*

6.9 The Committee accepted Ms. Maqboul's submission that this Charge could not properly relate to the dosage of Vetergesic which the Respondent said she had drawn up in a syringe, following the verbal prescription of Dr DG. The Committee had refused the College's application to amend the Charge to include reference to buprenorphine included in a syringe and the question raised by this Charge, in the Committee's judgment, was whether the Respondent had taken more than was

required by the prescription of Dr DG, i.e. whether she had taken a box of buprenorphine which contained vials of the drug.

- 6.10 The evidential foundation for this allegation consisted solely of the recollection of Ms. TS as to the contents of her telephone conversation with the Respondent on 9 June 2022. This recollection was noted in an interview conducted on 10 June 2022.
- 6.11 When the Respondent was interviewed on 30 June 2022, she gave an account of drawing up the medication in the syringe and, when asked “what she told TS” her account is recorded as follows: *“JF Spoke to Tara and said she took the box out of the cupboard, but didn’t take the box. Box was full, drew up the 3 and left the rest on the side.”*
- 6.12 To reiterate, the Committee was consistently told that the stock-keeping unit for buprenorphine is a box of five vials. Individual vials are not tracked. When there are no loose vials by the cupboard, staff must take a complete box from which to draw up the required dose from individual vials.
- 6.13 In the Committee’s judgment the possibility of a misunderstanding on the part of Ms. TS as to exactly what the Respondent was telling her is a real one.
- 6.14 The Respondent, a person of good character and in a position of responsibility, has given a consistent account from when she was first asked about this issue.
- 6.15 The Committee is therefore not sure that the Respondent took vials of buprenorphine as alleged in this charge.
- 6.16 Accordingly, this charge is **Not Proved**. It follows that those parts of Charge 2 which relate to this Charge are also **Not Proved**.
- 6.17 Charge 1 (c) has been admitted. The Committee accepts that admission and therefore finds Charge 1 (c) **Proved**. The Committee therefore has to consider the terms of Charge 2 in relation to this admission.
- 6.18 The first issue is whether the Respondent was acting dishonestly when she took from a cupboard in the preparation room at the practice one box of buprenorphine.
- 6.19 In considering this issue, the Committee has had regard to all of the Respondent’s evidence and has also taken into account that she is a person of good character, an experienced registered veterinary nurse, who was entrusted with positions of considerable responsibility within the practice.
- 6.20 The patient records for “Sid” support the Respondent’s evidence that this dog had been in considerable pain in the days prior to 27 June 2022. “Sid” had been in receipt of pain-relieving medication (Metacam) prescribed by Dr PK, MRCVS. Sid’s condition was also evident from the contemporaneous text messages exchanged between Dr. PK and the Respondent over the period 25 June to 27 June. In her agreed witness statement Dr PK confirmed that she had told the Respondent on 27 June 2022 that, while she was not in the practice that evening, Dr LK was there if she wanted a prescription for further pain-relieving medication.

- 6.21 The Respondent's presence in the practice on the evening of 27 June was therefore consistent with this evidence. In due course she obtained a prescription for further pain-relieving medication from Dr LK.
- 6.22 The Committee noted that the Respondent decided to take a box of Vetergesic from the cupboard when Ms. AC was still in the preparation room and able to observe her. This seems inconsistent with a dishonest intention. Equally, the Respondent's placing of the box in the waistband of her leggings is not, in the Committee's assessment, in itself conclusive evidence of a dishonest intention, given the absence of pockets in her leggings and the fact that she was at this time holding a baby.
- 6.23 The Committee has given very careful consideration to the Respondent's request to Ms. AC to come to the cattery area and not to tell anyone what happened. This is certainly evidence that could be consistent with a dishonest intention, if taken in isolation from the surrounding context. However, the Committee has had regard to the Respondent's evidence that she panicked and was worried about the ongoing investigation. Having regard to all the circumstances, the Committee accepts this explanation and has concluded that, in taking the box of buprenorphine, the Respondent had no intention to misappropriate the contents but had taken it from the cupboard prior to seeking a further prescription from Dr LK. In the Committee's assessment this is much more consistent with the history of the Respondent's employment at this practice than the suggestion that she took the box surreptitiously because she needed a large volume of buprenorphine for her dog. The Committee is not satisfied, so that it is sure, that any remark to that effect was made by the Respondent. In the Committee's assessment an ordinary, decent person would not regard the Respondent's conduct in taking the box in the circumstances she described as dishonest, although, as she acknowledges it was "wrong." In effect, she put the cart before the horse in taking the medication prior to requesting a prescription which in all likelihood would be, and indeed was, given.
- 6.24 Charge 2 (a) insofar as it relates to the admitted conduct described at Charge 1 (c) is therefore **Not Proved**.
- 6.25 The Committee next has to consider whether in taking the box of buprenorphine the Respondent was not acting in accordance with instructions from a veterinary surgeon and/or in accordance [with] a valid prescription.
- 6.26 The Respondent has not suggested that she had received a prescription from Dr. LK or any other veterinary surgeon. She had not discussed the need for Vetergesic with Dr. LK before she took the box from the cupboard.
- 6.27 Accordingly the Committee finds Charge 2 (b), insofar as it relates to the admitted conduct at Charge 1 (c), is **Proved**.
- 6.28. The Committee also has to consider whether the Respondent failed to record, adequately or at all, the amount of buprenorphine taken from the practice and/or practice's cupboard.
- 6.29 The Respondent was well aware of the practice's expectations with regard to the removal of buprenorphine from the cupboard. On her own account she was in the process of making her way to see Dr LK without having logged the removal of the

box of buprenorphine. In the Committee's judgment the Respondent's duty to log the removal of buprenorphine from the cupboard existed independently of the duty of a veterinary surgeon to complete clinical records with regard to prescriptions. The Committee rejects the submission to the contrary made by Ms. Maqboul.

- 6.30 The Committee therefore finds that Charge 2 (c), insofar as it relates to the admitted conduct at Charge 1 (c), is **Proved** insofar as it relates to the cupboard.

Summary.

- 6.31 Charges 1 (a) and 1 (b) ii are **Not Proved**. Charge 2 does not therefore arise in relation to these Charges.
- 6.32 Charge 1 (c) is **Proved** by way of admission.
- 6.33 Charge 2 (a) is **Not Proved** in relation to the admitted conduct at Charge 1 (c).
- 6.34 Charges 2 (b) and (c) are **Proved** in relation to the admitted conduct at Charge 1 (c).

7. Disgraceful Conduct in a professional respect.

- 7.1 In view of the Committee's factual findings, the College chose not to make any submissions.
- 7.2 Ms. Maqboul prepared short written submissions. She reminded the Committee that disgraceful conduct in a professional respect was conduct which fell far short of that which is expected of a registered veterinary nurse. She submitted that what had occurred in this case could not properly be regarded as falling into that category.
- 7.3 The legal assessor reminded the Committee that it was now required to make a judgment. There was no burden or standard of proof to be applied.
- 7.4 The Respondent had removed a box of buprenorphine from the drugs cupboard before she had received a prescription for that medication. She intended to seek such a prescription from Dr LK, who was in the practice at the time and from whom she had just received prescriptions for other pain-relieving medications. As it happened Dr LK issued the prescription for the buprenorphine which the Respondent sought.
- 7.5 The Respondent has acknowledged her fault in removing the box of buprenorphine before Dr.LK had issued a prescription. This appears to have been the result of a momentary decision on her part that Vetergesic would be of benefit to her dog. She also omitted to sign the relevant log. The evidence which the Committee heard suggested that this omission was relatively commonplace at the practice.
- 7.6 In acting in this way, as the Respondent acknowledges, she fell below appropriate standards. The Committee has concluded however that in all the circumstances her conduct did not fall far below those standards and could not realistically be described as disgraceful conduct in a professional respect.

Disciplinary Committee
26 February 2024