

ROYAL COLLEGE OF VETERINARY SURGEONS

INQUIRY RE:

DR SYLWIA KALISZ MRCVS

**DECISION AND REASONS ON DISGRACEFUL CONDUCT IN A PROFESSIONAL
RESPECT**

1. The Committee found proved the following Charges: 1b, 1e, 2c, 3a, 3b, 3c, 4a, 4b, 4c, 5a, 5b, 5c, 5d, 5e, 5g, 5h, 6, 7a, 7b, 7c, 7d, 7e, 7f, 7g, 7h, 7i, 8a, 8b, 8c and 9b.

Summary of the College's submissions on Disgraceful Conduct

2. Mr Tankel, on behalf of the College invited the Committee to consider the charges both individually and in the round and submitted that individually and cumulatively the charges found proved amounted to disgraceful conduct in a professional respect.

Summary of the Respondent's submissions on Disgraceful Conduct

3. Mr Jamieson confirmed that SK had admitted disgraceful conduct at the outset of the hearing and continued to do so. However, he reminded the Committee that the decision on disgraceful conduct was a matter for its own judgement.
4. He submitted that the charges which had been found proved were all clinical and all related to a single, short course of treatment in relation to a single animal which had been reflected on and not repeated. He submitted that if the Committee did find disgraceful conduct, that conduct ought to be characterised as towards the lower end of the spectrum of seriousness.

Legal Advice

5. The Legal Assessor provided the relevant advice to the Committee on the process to be followed. There is no standard of proof. It is for the Committee's own judgement.

The Committee's findings and reasons on Disgraceful Conduct in a Professional Respect.

Aggravating and Mitigating Factors

6. In coming to its decision, the Committee considered the aggravating and mitigating factors set out in the Disciplinary Committee Sanctions Guidance August 2020 ("the Guidance") which were relevant at this stage.
7. The Committee considered the following relevant aggravating factors:
 - a. There was actual injury to Stella, leading to her death.
 - b. Recklessness - SK performed an enterotomy when it was irrational to do so.
 - c. Opportunity for reflection - SK did not take steps to inform anybody, including the owners, or make a clinical record of the enterotomy at any point between 15th and 18th July.
8. The Committee considered the following relevant mitigating factors:
 - a. There was no financial gain.
 - b. The Committee viewed this as one incident which spanned a number of days, making it a single and isolated incident.
 - c. Despite making a series of clinical misjudgements, SK believed that what she was doing was in the best interest of Stella.
 - d. The entire clinical team around SK, which included one more junior veterinary surgeon and two experienced RVNs, were in agreement with her decisions, and at no point were any concerns raised during or after the procedure.
 - e. SK was examining Stella in the knowledge that there had been a previous positive pregnancy diagnosis, confirmed by an ultrasound.
 - f. The effect Covid had upon the veterinary profession, creating a pressurised environment and impacting communication, both within the practice and between the practice and owners.

Breaches of the Code of Professional Conduct for Veterinary Surgeons (“the Code”)

9. In reaching its decision on the question of disgraceful conduct in a professional respect, the Committee considered that SK’s actions breached the following provisions of the Code:

“Veterinary surgeons seek to ensure the health and welfare of animals committed to their care and to fulfil their professional responsibilities, by maintaining...

1. Professional competence

1.2 Veterinary surgeons must keep within their own area of competence and refer cases responsibly.

1.3 Veterinary surgeons must provide veterinary care that is appropriate and adequate.

“2.1 Veterinary surgeons must be open and honest with clients and respect their needs and requirements

...

2.4 Veterinary surgeons must communicate effectively with clients, and ensure informed consent is obtained before treatments or procedures are carried out.

2.5 Veterinary surgeons must keep clear, accurate and detailed clinical and client records.”

Paragraph 1.4 of the Code of Conduct imposes a requirement to obtain informed consent.

10. The Committee took into account all of the submissions made by the College and the Respondent’s Counsel. It accepted the advice of the Legal Assessor.
11. The Committee further noted that the test for considering whether behaviour found proved amounts to disgraceful conduct in a professional respect is whether the conduct of the veterinary surgeon falls far short of that which is expected of a member of the veterinary profession. The Guidance states that this is conduct described as ‘*serious professional misconduct*’ (paragraph 23). Further the Committee took into account whether the Respondent’s conduct would undermine public confidence in the veterinary profession and/or whether the conduct undermined the promotion and maintenance of proper professional standards and conduct in the profession.

Decision

Charges 1b, 1e

12. In respect of Charges 1b and 1e, the Committee considered that in view of the fact that SK believed that the pregnancy was abnormal, misinterpreting the ultrasound was an understandable mistake. In that belief, proceeding to the Caesarean as SK did was the logical next step.

The Committee concluded that the conduct was not below the standard expected of a reasonably competent veterinary surgeon.

Charge 2c

13. The Committee concluded that SK had the opportunity to gain informed consent, and the enterotomy which was undertaken was entirely different to the initial plan and could not be covered by the original consent form. Unless there are serious clinical circumstances, which were not present in this case, it is a veterinary surgeon's responsibility to obtain informed consent for any procedure.

The Committee found that the conduct fell far below what is expected of a reasonably competent veterinary surgeon.

Charges 3a, 3b and 3c

14. The Committee concluded in respect to charge 3a, that there was no supporting evidence of calcified bone on the x-ray indicating ingested puppy bones. SK should have considered a more conservative method of treatment. Instead, SK undertook a high-risk surgical procedure. The Committee determined that, had she stopped to reflect and think, SK may have changed her approach.

The Committee found that the conduct fell far below what is expected of a reasonably competent veterinary surgeon.

15. The Committee considered that the public would expect a veterinary surgeon to know on which part of the bowel they were operating.

The Committee found that the conduct fell far below what is expected of a reasonably competent veterinary surgeon.

16. In relation to charge 3c, the Committee took into account both experts' opinions and concluded that the conduct was below the standard expected of a reasonably competent veterinary surgeon, but not far below.

Charges 4a, 4b, 4c

17. The Committee found that the elements contained within these charges were vital steps to mitigate the risks of the surgery. That they were missed was detrimental to Stella's welfare, and breached the Code.

The Committee found that the conduct fell far below what is expected of a reasonably competent veterinary surgeon.

Charges 5a, 5b, 5c, 5d, 5e, 5g, 5h

18. This was the first post operative check on 17 July 2020. Given the short period of time between the surgery and the time of these charges, SK could have mistakenly attributed Stella's presenting signs to be a routine post operative complication. The Committee found this conduct fell below, but not far below the standard expected of a reasonably competent veterinary surgeon.

Charge 6

19. By 18 July 2020, Stella continued to present poorly. SK should have considered Stella's post operative complications, particularly in light of the enterotomy she had carried out. At this point SK had a clear duty to reexamine Stella.

The Committee found that the conduct fell far below what is expected of a reasonably competent veterinary surgeon.

Charges 7a, 7b, 7c, 7d, 7e, 7f, 7g, 7h, 7i

20. For the reasons set out in paragraph 17, the Committee concluded that by 18 July 2020 it should have been obvious to SK that this was more than a routine post operative infection. The Committee considered that, if Stella had presented to another veterinary surgeon at this stage, even without the knowledge of the enterotomy, a reasonably competent veterinary surgeon would have carried out further investigations.

The Committee found that the conduct fell far below what is expected of a reasonably competent veterinary surgeon.

Charges 8a, 8b, 8c

21. SK repeatedly failed to record the colotomy procedure and inform the owners on any of the following days, despite Stella presenting with post operative complications. The Committee determined that the continuing failure to record anything about the colotomy in the clinical records, particularly in light of her impending holiday from the evening of 18 July 2020, was a serious departure from the Code.

The Committee found that the conduct fell far below what is expected of a reasonably competent veterinary surgeon.

Charge 9b

22. SK admitted misleading conduct from the outset of the hearing. The Committee accepted that admission and determined that for all of the reasons applying to charges 4a and 8a, 8b, and 8c this was a serious departure from the Code.

The Committee found that the conduct fell far below what is expected of a reasonably competent veterinary surgeon.

23. For all of the reasons set out above the Committee found disgraceful conduct in a professional respect proved.

Disciplinary Committee
19 October 2023