

# ROYAL COLLEGE OF VETERINARY SURGEONS

## INQUIRY RE:

**LIBBY MORRIS RVN**

---

### DECISION ON SANCTION

---

1. The Committee referred to the Disciplinary Committee Procedure Guidance 2020, which provided guidance on sanctions.
2. The Committee took into account all of the written and oral submissions made by Mr Jamieson. In addition the Committee referred to the cases of RCVS v Bohnen [2019] and also Walker v RCVS PC 16 [2007] and Sawatti v GMC [2022] EWHC 283 which had been drawn to its attention by Mr Jamieson.

#### **Summary of the Respondent's submissions**

3. Mr Jamieson asked the Committee to consider suspending the Respondent by way of sanction instead of removing the Respondent from the register. He also asked the Committee to take into account that '*Veterinary Nurses are a valuable, finite public resource, the public interest includes the return to practice of those who do not pose an ongoing risk of causing harm*'.
4. In summary, in mitigation Mr Jamieson relied on the following to persuade the Committee that suspension was a sufficient and proportionate sanction in this case:
  - i. The Respondent had not denied the primary facts (she had written the records, and the timings were wrong). Her only denial was to the 'secondary' dishonest intent, and then only in relation to part of her overall behaviour.
  - ii. Her misconduct could be characterised as single and isolated. There have been no other referrals to the RCVS in Ms Morris' case. No concerns as to her probity or integrity had been raised at Filham Park before the events of Christmas Day 2020 relating to these charges. Subsequently she has worked almost continuously and without restriction, and no concerns of any nature have been raised by either of her employers.
  - iii. The Respondent was 23 at the time of these events, and in the first years of her career.

- iv. There was immaturity in her approach to solving the conflict she was confronted with in December 2020 – when balancing the competing personal and professional pressures she was under.
  - v. The Respondent made substantial admissions and has demonstrated significant insight, understanding and reflection on the gravamen of her wrongdoing. There is no wider evidence of a lack of insight. The Respondent admitted most of the charges and denied a discrete particular of one charge.
  - vi. The Respondent has made efforts to remediate and to avoid a repetition of such behaviour.
  - vii. Two years have elapsed since the events set out within the charges and so there has been a significant lapse of time since the events.
5. The Committee also took into account the positive character testimonials which evidenced the Respondent's wider professional practice and personal standards from before and since December 2020. It further considered the Respondent's CPD record.

### **The Committee's Decision on Sanction**

6. The Committee had in mind that the primary purpose of sanctions is not to punish the Respondent but to protect the public interest which includes the welfare of animals, maintaining public confidence in the profession and declaring and upholding proper standards of conduct. It bore in mind that any sanction it applies must be proportionate to the nature and extent of the conduct, and that it should weigh the public interest with the interests of the Respondent.
7. In deciding on the proportionate sanction the Committee took into account the aggravating and mitigating factors, which it set out in its decision on Disgraceful Conduct. It repeats those below for ease of reference:

#### *aggravating factors:*

- i) *Risk of injury to an animal – leaving Rocky unattended for approximately two hours whilst recovering from a serious emergency surgical procedure – Gastric Dilatation and Volvulus (GDV).*
- ii) *Dishonesty*
- iii) *Recklessness regarding Rocky's welfare*
- iv) *Pre-meditated misconduct - the Committee found that the Respondent had written a time on clinical records which was later than when she had written it so that it would not be noticed that she had left the practice early*
- v) *Breach of client trust*
- vi) *Any relevant increased position of trust or responsibility - the Respondent held the on-call position that day and when alone at the practice had sole responsibility for Rocky unless and until she asked for assistance from the veterinary surgeon*

#### *mitigating factors:*

- i) *That this was a single isolated incident in respect of one animal but a series of events amounting to misconduct on one day*
  - ii) *Although there was a risk of harm to Rocky, there was no evidence of actual harm due to the Respondent's actions or that the Respondent's actions had caused the death of Rocky. However, the veterinary surgeon was misled by the Respondent as to who was looking after Rocky until he returned.*
8. At this sanction stage, the Committee decided that there were no additional aggravating factors. However, it did find considerable further personal mitigating factors which were pertinent to its decision:
- i) Youth and inexperience - the Respondent is now aged 26 years old and at the time of the charges she was aged 23. She has worked as a veterinary nurse since then. At the time of the events referred to in the charges, the Respondent was led by a veterinary surgeon who had agreed that she could leave the practice for up to 1½-2 hours. Her decision to leave Rocky alone on Christmas day to be with her own unwell dog and family and to be dishonest about it was, the Committee found, based on her immaturity. It did not find her to have been persistently dishonest even though she had failed to fully admit her dishonesty before this Committee.
  - ii) Unblemished career  
The Respondent has no previous disciplinary findings against her.
  - iii) Open and frank admissions  
The Respondent made substantial admissions to the charges and to the practice when she was first confronted. In addition she made substantial admissions before the Disciplinary Committee.
  - iv) Subsequent efforts to avoid a repetition of such behaviour  
The testimonials supplied to the Committee included references from the Respondent's current employer and included a reference from the Clinical Director of the current practice where she works who described the Respondent positively in saying '*I find her clinical notes are well written*' ... '*she takes on board areas for improvement and training to ensure she works in accordance with the high standards we set for veterinary care in the practice. I have never had any reason to question her honesty. In view of her role she is often in practice on her own and she is trusted in this*'.
  - v) Subsequent efforts to remediate past misconduct  
The Respondent has demonstrated that since March 2021 she has been working as a veterinary nurse without incident and she is trusted in her current employment. The Committee was also provided with evidence to show that the Respondent has continued with her volunteering with the charity Streetvet whereby she provides veterinary care to animals owned by homeless people. She also volunteers as a supporter of Gables Dogs and Cats home (an animal shelter) and she regularly fosters animals. It found all of these matters helped to remediate her past misconduct.
  - vi) Significant lapse of time  
The College confirmed that it was no fault of the Respondent's that she faced a Disciplinary Hearing in March 2023 over two years after the events to which the charges referred. Since then, the Committee found that the Respondent

continued to demonstrate her passion for her veterinary nursing career. The Committee also noted that the Respondent had worked without incident for a longer time than she had worked before the events to which the charges related as a qualified veterinary nurse.

vii) Demonstration of insight into the offence and disgraceful conduct committed.  
Mr Jamieson said that the Respondent had developing insight and acknowledged that she had 'got things badly wrong'. She had shown further insight by accepting and acknowledging the Committee's decisions and being devastated by them. The Committee accepted those submissions. Further it noted that the Respondent has always wanted to work as a veterinary nurse and is devoted to the veterinary nursing profession.

viii) Personal character references and testimonials.  
The Committee had before it three references from the Respondent's current employers which said she was a 'good veterinary nurse' and 'an asset to the practice' and there was 'no cause to question her judgement'. There were three other testimonials from the practice where she worked at the time of the events, although none of those referees were working with the Respondent at the time of the events. All of those references are positive and supportive about the Respondent. In addition there were five personal references from relatives and friends who spoke to her good character and love of animals.

9. The Committee had previously decided '*that the Respondent had decided to commit misconduct with some element of pre-meditation by writing in the times of 14:00 before leaving, to cover her tracks. The Committee therefore did not find that this was misconduct committed without the opportunity for full reflection*'. The Committee considered the further submissions Mr Jamieson made about the Respondent dishonestly absenting herself from the practice and that her misconduct should be characterised as having been taken 'without the opportunity for full reflection'. The Committee did not consider that the further submissions altered its original decision but it acknowledged at this stage that the fact that the Respondent's dog (which she had had since she was aged 11) was seriously unwell and died two days after these events may well have contributed to her immature decision making at the time.
10. The Committee considered the case of Sawatti v GMC [2022] EWHC 283 and accepted the submission of Mr Jamieson that its rejection of the Respondent's defence to dishonesty was not in this case a demonstration of a lack of insight.
11. The Committee decided that closing the case with 'no further action' for a finding of dishonesty was wholly inappropriate.
12. It went on to consider whether to postpone judgement. Since neither party invited it to do so and since there was no reason to postpone judgement it did not do so.
13. The Committee next considered whether the sanction of a reprimand or warning as to future conduct was a sufficient sanction to meet the public interest in this case. It decided that the misconduct found proved was too serious for such a sanction although there was some evidence of insight and no future risk to animals.

14. The Committee went on to consider whether a suspension was the proportionate sanction. It noted that the Disciplinary Committee Procedure Guidance 2020 indicated that such a sanction may be appropriate where the Respondent has shown insight into the seriousness of the misconduct and there is no significant risk of repeat behaviour and she is fit to return to practise. The Committee was satisfied that the Respondent's insight was developing and that because she had been practising as a veterinary nurse without incident since these events, this was compelling evidence to indicate that she was unlikely to repeat similar behaviour. This was particularly so since the Committee had found her immaturity had contributed to her acting dishonestly. The Committee also took into account that the Respondent was said, by Mr Jamieson, to be 'devastated' regarding the content of the Committee's reasons in its decision on Disgraceful Conduct in a Professional Respect, regarding her breaches of the Code of Practice for Veterinary Nurses (Code of Practice). Her acknowledgement of her misconduct and the Committee's decision about her misconduct were likely to deter her from presenting as a risk to the public in the future.
15. In deciding the proportionate sanction the Committee considered the nature and extent of the dishonesty it had found proved. When considering where the dishonesty fell on a scale of dishonesty, it noted that the Respondent had acted dishonestly within her practice as a veterinary nurse, on three clinical records but that the dishonesty related to a single incident and one patient with the aim of extending her time away from the practice on Christmas day. It therefore concluded that this could be described as middle ranging dishonesty (not the most or least serious type of dishonesty). It noted that the Disciplinary Committee Procedure Guidance 2020 referred to "*the gravity of the matter may flow from the possible consequences of the dishonesty as well as the dishonesty itself*". The Committee reiterated that there was no evidence that the death of Rocky could be causatively linked to the Respondent's actions.
16. Furthermore, although the Respondent's misconduct had breached four parts of the Code of Practice it found overall that she had made significant efforts to mitigate her position since these events during the time that she had been waiting for a disciplinary hearing.
17. The Committee therefore concluded that taking into account all of the above matters that a suspension of 6 months was the proportionate sanction required to meet the public interest in this case. It decided on a period of six months in order to send a signal to the veterinary nursing profession and the public about such conduct. In the Committee's judgment taking into account all of the above factors a sanction of removal would be excessive and would not take sufficient account of the substantial mitigating factors.