

ROYAL COLLEGE OF VETERINARY SURGEONS

INQUIRY

RE:

[REDACTED] RVN

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

Determination on Disgraceful Conduct in a Professional Respect

1. Following the handing down of the Committee's decision on facts, the Committee was informed by Ms Curtis that the VDS had indicated that it would like to make submissions. The Committee asked for the VDS to be sent the determination on facts, and decided to give it the opportunity to address the Committee.
2. After this time had been afforded to the VDS, the Committee was informed that the VDS had sent an email to the College to state that the Respondent accepted that the conduct found proved constituted disgraceful conduct in a professional respect. A further email was received from the VDS confirming that it did not object for the Committee to retire to consider both the Disgraceful Conduct stage and Sanction Stage in one sitting, and that they wished the Committee to take into account the Respondent's letter dated 18 March 2022 with respect to mitigation.
3. The Committee considered the submissions of Ms Curtis in the form of her written submissions on disgraceful conduct.

4. The Legal Assessor advised that it was open to the Committee to retire to consider both Disgraceful Conduct and Sanction together, and to hand down its decision or decisions after its deliberations, with the caveat that it must consider each stage separately and consecutively. The Committee accepted the test for considering disgraceful conduct in a professional respect, is as set out by the Legal Assessor, namely whether the conduct falls far short of that which is expected of a member of the veterinary nurse profession in the particular circumstances as they existed at the time in question.
5. The Committee took into account the “Disciplinary Committee Procedure Guidance” published by the RCVS. The Committee noted that it was entitled to take into account the aggravating and mitigating factors in the case provided they did not amount to personal mitigation. The question of whether conduct amounts to disgraceful conduct in a professional respect is a matter of judgement for the Committee, and not a matter of a burden or standard of proof.
6. The Committee took into account the Code of Professional Conduct for Veterinary Nurses (the Code). The Committee was mindful that not every breach of the Code amounts to disgraceful conduct in a professional respect.
7. In considering whether the conduct amounted to disgraceful conduct in a professional respect the Committee had regard to the public interest which includes protecting the health and welfare of animals, maintaining public confidence in the profession and declaring and upholding proper standards of conduct and behaviour.
8. The Committee considered whether each charge, either individually or in combination, could amount to disgraceful conduct in a professional respect.
9. The Committee considered that the following aggravating factors applied:
 - i. Risk of injury to humans due to the Respondent having obtained possession of a large quantity of medicines outwith the secure controls surrounding them which existed at the practice;

- ii. Risk of impaired judgment of the Respondent while at work, having self-administered medication at work, resulting in a risk to animals in ■■■ care;
- iii. Breach of ■■■ employer's trust and a breach of trust in ■■■;
- iv. Breach of ■■■ colleagues' trust insofar as ■■■ involved them in the ordering process of medicines;
- v. Abuse of ■■■ professional position which gave ■■■ an increased position of responsibility in respect of access to medicines;
- vi. Misconduct which was sustained and repeated over a period of time;
- vii. Disregard for the safeguards set by veterinary medicines regulations, particularly in relation to a Controlled Drug;
- viii. Recklessness in that ■■■ self-administered medication at work with a syringe, and drew it up into syringes at work for the purpose of self-administration on several occasions;
- ix. Premeditated conduct by making entries in clinical records, creating a document which purported to be a prescription, and also taking medicines from the practice's stocks over a prolonged period of time.

10. The Committee considered that the following mitigating factor applied:

- i. No actual harm to animals.

11. The Committee took the view that the Respondent had breached the following provision of the Code:

“1.5 Veterinary nurses who supply and administer medicines must do so responsibly.

6.5 Veterinary nurses must not engage in any activity or behaviour that would be likely to bring the profession into disrepute or undermine public confidence in the profession.”

12. The Committee considered each Charge separately when considering whether the Respondent was guilty of disgraceful conduct. However, the Committee noted that commonalities applied to all the charges as set out below.

13. All the Charges found proved involved dishonesty in respect of the obtaining of medicines other than for legitimate veterinary use. Such behaviour struck at the heart of the profession of an RVN. The need for honesty underpins the duties and obligations of a profession in which the public places its trust. Further, an RVN has access to such medicines as part of the role, in the care and treatment of animals, and the Respondent’s actions were a breach of the trust placed in [REDACTED] to deal with medicines honestly, without detriment to the practice, and for the benefit of animals. In addition, the dishonesty relating to [REDACTED] professional role breached the trust of [REDACTED] employer and [REDACTED] colleagues.

14. With regard to Charges 1, 2 and 4, the Respondent’s conduct was sustained and repeated over a significant period of time.

15. With regard to Charge 4, the drawing up of medication taken from the practice for the purposes of self-administration was done on a number of occasions. The Committee found that self-administration specifically took place at the practice on one occasion and this incident risked the health and safety of animals in [REDACTED] care as a result of potential impairment to [REDACTED] judgment arising out of the self-administration of the medicine.

16. The Committee considered that the Respondent’s conduct in all Charges was premeditated. In particular, with regard to Charges 1 and 2, the Respondent took

significant quantities of medicines over a prolonged period of time, in a repeated and sustained manner. With regard to Charge 3, the Respondent made dishonest clinical entries in relation to ■■■ dead dog Teddy, in an attempt to conceal that the medicine was taken for purposes other than legitimate veterinary use. With regard to Charge 4, the Respondent's behaviour repeatedly occurred in the prep room at the ■■■■ branch, and with regard to Charge 5, the Respondent dishonestly created a document purporting to be a prescription for Teddy for the purpose of obtaining medicine when it was not for him.

17. The Committee considered that the Respondent's actions in all the Charges both individually, and in combination, fell far short of what was expected in the circumstances, and decided that they constituted disgraceful conduct in a professional respect.

Decision on Sanction

18. Ms Curtis confirmed to the Committee that she had no submissions to make on Sanction. Ms Curtis informed the Committee that there were no previous regulatory findings against the Respondent.

19. The Committee took into account the Respondent's written communications with the College, ■■■ letter dated 18 March 2022, and ■■■ medical records.

20. The Committee took into account the Sanctions Guidance 2020, and accepted the advice of the Legal Assessor, who referred to the general principles governing the imposition of sanctions.

21. The Committee had in mind that the decision whether to impose a sanction is a matter for its own independent judgment. The primary purpose of the available sanctions is not to punish but: (i) to protect the welfare of animals, and the public (ii) to maintain public confidence in the profession and (iii) to declare and uphold proper standards of conduct. The Committee was aware that any sanction imposed must be proportionate to the nature and extent of the conduct and to the maintenance of appropriate standards expected of members of the veterinary nursing profession, and must weigh the seriousness of the professional misconduct and the need to protect animals,

the public and the public interest with and against the interests of the Respondent. No greater sanction should be imposed than is absolutely necessary. Accordingly the Committee considered the available sanctions in reverse order of seriousness.

22. The Committee took into account the following aggravating factors:

- i. Risk of injury to humans due to the Respondent having obtained possession of a large quantity of medicines outwith the secure controls surrounding them which existed at the practice;
- ii. Risk of impaired judgment of the Respondent, having self-administered medication at work, resulting in a risk to animals in ■■■ care;
- iii. Breach of ■■■ employer's trust and a breach of trust in ■■■;
- iv. Breach of ■■■ colleagues' trust insofar as ■■■ involved them in the ordering process of medicines and the concealment of that from ■■■ employer;
- v. Abuse of ■■■ professional position which gave ■■■ an increased position of responsibility in respect of access to medicines;
- vi. Misconduct which was sustained and repeated over a period of time;
- vii. Disregard for the safeguards set by veterinary medicines regulations, particularly in relation to a Controlled Drug;
- viii. Recklessness in that ■■■ self-administered medication at work with a syringe, and drew it up into syringes at work for the purpose of self-administration on several occasions;

- ix. Premeditated conduct by making entries in clinical records, creating a document which purported to be a prescription, and also taking medicines from the practice's stocks over a prolonged period of time;

23. The Committee took into account the following mitigating factors:

- i. No harm to animals;
- ii. Some early admissions made by the Respondent to [REDACTED] employer, the police and the RCVS;
- iii. Apology made to the College for [REDACTED] behaviour;
- iv. A long career as an RVN;
- v. Some efforts to avoid repetition of the behaviour and remediate past conduct by seeking professional help;
- vi. Lapse of time of some four years since the incidents;
- vii. Demonstration of some insight into the disgraceful conduct;
- viii. Difficult personal circumstances and health issues at the time of the incidents.

24. The Committee considered from the Respondent's communications to the College, including [REDACTED] letter dated 18 March 2022 that [REDACTED] had shown some insight into some of [REDACTED] disgraceful conduct. [REDACTED] has repeatedly accepted that taking Midazolam was wrong and has apologised and expressed remorse. Further, [REDACTED] at the time of the incidents, [REDACTED] accepted that this did not excuse [REDACTED] behaviour. However, the insight expressed was limited to the taking of Midazolam, and the Committee considered that the insight shown by [REDACTED] was limited.

25. The Committee also considered that the repetitive nature of the prolonged taking of medication gave rise to a concern about the risk of repetition. The Committee took into account the Respondent's medical records, and noted that there [REDACTED] at the time of the disgraceful conduct. The Committee noted there are [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED] Further, there is no evidence that the Respondent has worked in a veterinary practice without any further repetition of the matters found proved in order to satisfy the Committee that [REDACTED] has addressed the conduct found proved. The Committee therefore considered that this gave rise to a risk of repetition of the disgraceful conduct, should the Respondent find [REDACTED] in similar circumstances in the future, giving rise to a risk to animals and the public interest.
26. The Committee considered the circumstances of the disgraceful conduct, and concluded that the dishonesty found proved, and the breach of trust with regard to medicines, placed the conduct at the higher end of the spectrum of seriousness.
27. The Committee first considered whether to take no further action, but decided that this would not be appropriate as it would not address the need to protect animals or uphold public confidence in the profession. Further, the Committee considered that the findings were too serious for this outcome to be proportionate.
28. The Committee considered a postponement of judgment, but took the view that a postponement with or without undertakings would not be appropriate in this case. There is no indication that the Respondent would wish to comply with undertakings ([REDACTED] has expressed that [REDACTED] does not wish to return to the profession), and in any event, the failings are not in limited aspects of practice. Rather, the failings are fundamental and relate to dishonesty in relation to the obtaining and self-administration of veterinary medicines while in practice. It would be impracticable to formulate undertakings capable of effectively addressing these issues. Further, in view of the submissions of the Respondent had found the proceedings extremely stressful, the Committee considered that a postponement for no clear purpose would not be in the Respondent's own interests. In any event, postponement of judgment with or

without undertakings would not be appropriate, in the Committee's view, as a result of the seriousness of the matters found proved, the risk of repetition, the risk to animals, and the need to maintain public confidence in the profession and the wider public interest.

29. The Committee went on to consider the sanction of a Reprimand or Warning as to future conduct. The disgraceful conduct was not at the lower end of the spectrum of gravity. There was a pattern of sustained and persistent misconduct. There is a risk to animals, the public and the wider public interest that requires registration to be restricted. Further, there is limited evidence of insight, and remediation. In such circumstances, the Committee decided that such a sanction would be neither appropriate nor proportionate.

30. The Committee next went on to consider a Suspension from the Register. The Committee considered paragraph 71 of the Sanctions Guidance which set out some criteria which are applicable when considering Suspension. It did not consider that the circumstances of this case, as evidenced by the findings of fact, met these criteria. In particular, the Committee took into account the limited nature of the Respondent's insight, the gravity of the conduct, and the potential for repetition in light of the lack of evidence that the matters found proved have been addressed. The Committee was also unable to conclude that the Respondent would be fit to return to practice after a period of suspension without further review. Accordingly, it did not consider that Suspension, even for the maximum period of 2 years, would be proportionate or would address the conduct found proved.

31. The Committee carefully considered the sanction of removal from the RCVS Register.

32. The Respondent abused [REDACTED] position of trust and was dishonest in obtaining veterinary medicines, with a disregard for the processes and controls which safeguarded the Controlled Drug Midazolam, and prescription only medicines. Further, there is the unaddressed risk of repetition of [REDACTED] behaviour. [REDACTED] behaviour was a serious departure from the Code, and [REDACTED] actions, which involved dishonesty, and which were prolonged and repeated in nature, struck at the heart of the veterinary nursing profession and undermined the reputation of the profession as whole. [REDACTED] actions were fundamentally incompatible with remaining on the Register.

33. The Committee's view was that the demands of the public interest in this case are high, and in light of all of the circumstances, removal from the Register was the only means of protecting animals and upholding the wider public interest, which includes the need to uphold proper standards of conduct and performance, and to maintain confidence in the profession and its regulation.
34. The Committee therefore decided to direct that the Respondent should be removed from the Register. In coming to this decision, the Committee carefully applied the principle of proportionality and took into account the impact of such a sanction on the Respondent's ability to practise [REDACTED] profession, as well as the potential financial impact upon [REDACTED]. However, the Committee determined that the need to protect animals and clients and uphold the wider public interest outweighed the Respondent's interests in this respect.
35. In light of the gravity of the conduct, and all of the factors taken into account, any lesser sanction would lack deterrent effect and would undermine public confidence in the profession and the regulatory process. Removal was the only appropriate and proportionate sanction.
36. The Committee therefore directs the Registrar to remove [REDACTED] from the RCVS Register.

Disciplinary Committee
1 April 2022

