

IN THE MATTER OF THE VETERINARY PROFESSION ACT,
R.S.A. 2000, c. V-2, AS AMENDED;

AND IN THE MATTER OF A HEARING INTO THE CONDUCT
OF DR. JEFF SERFAS, A MEMBER OF THE ALBERTA
VETERINARY MEDICAL ASSOCIATION;

AND INTO THE MATTER OF A REFERRAL BY THE ALBERTA
VETERINARY MEDICAL ASSOCIATION COMPLAINTS
DIRECTOR IN ACCORDANCE WITH SECTION 41.1(3) (B) OF
THE VETERINARY PROFESSION ACT

PROCEEDINGS HELD IN EDMONTON, ALBERTA
AUGUST 2, 2017

**DECISION AND REASONS FOR SANCTIONS OF THE HEARING TRIBUNAL OF
THE ALBERTA VETERINARY MEDICAL ASSOCIATION (ABVMA)**

Pursuant to a public hearing pursuant to the *Veterinary Profession Act*, R.S.A. 2000, c.V-2, as amended, (the “Act”) into the conduct of Dr. Jeff Serfas held on Wednesday August 2, 2017 at 9:30 a.m. at the Offices of Parlee McLaws, LLP, 1700 Enbridge Centre, 10175-101 Street, Edmonton, Alberta, the Alberta Veterinary Medical Association Hearing Tribunal is issuing its reasons for its decisions.

The members of the Hearing Tribunal were Dr. Louis Kwantes, Dr. Kevin Schulz, Dr. Annabelle Denson and Mr. David Graham, Public Member.

Dr. Jeff Serfas was present at the Hearing. He chose to be represented by legal counsel, Ms. Diana Gosselin. Also present at the hearing were Ms. Karen Smith, legal counsel for the ABVMA and Dr. Darrell Dalton, representative of the ABVMA and Dr. Phil Buote, ABVMA Complaints Director.

The hearing was a public hearing pursuant to s. 39.1(1) of the *Veterinary Profession Act*.

CONSENT ORDER

The investigated member, Dr. Jeff Serfas provided a written admission of unprofessional conduct to the Hearing Tribunal dated the 18th day of July 2017 pursuant to s. 35.1 of the Act.

The Hearing Tribunal accepts all of the admissions of the investigated member.

The allegations in the Notice of Hearing arise from a referral by the ABVMA Complaints Director in accordance with section 41.1(3) (b) of the *Veterinary Profession Act*, R.S.A. 2000, c.V-2, as amended.

The allegations in the Notice of Hearing are as follows:

Contravening an Order of the Hearing Tribunal

1. That Dr. Serfas failed to successfully satisfy the Practice Inspection Practice Standards Audits of January 16, 2015 and January 19, 2017 as ordered by the Hearing Tribunal.
2. That in failing the practice audits of January 16, 2015 and January 19, 2017, Dr. Serfas failed to maintain the appropriate minimum PIPS standards.
3. That in the four required PIPS audits pursuant to the order of the Hearing Tribunal, Dr. Serfas demonstrated ongoing deficiencies with respect to the minimum practice standards including as follows:
 - a. Large animal record deficiencies including:
 - i. Inability to locate or produce a medical record related to the sale of a prescription product
 - ii. Medical records that were located or produced lacked documentation of the medical need for the prescription products
 - iii. Medical records that were located or produced lacked documentation of appropriate dispensing
 - b. Failure to have an adequate prescribing protocol in place.
 - c. Undertaking a number of surgical procedures for which sufficient trained and registered staff were not available.
 - d. Lack of documented client informed consent that a dedicated anesthetist was not available for surgeries
 - e. Ongoing issue of incomplete medical records and misplaced records
 - f. Lack of appropriately registered staff in place to whom dispensing activities are delegated.
 - g. Undertaking an inappropriate volume of small animal surgeries given the clinic resources.
 - h. Controlled drug logs were not accurately up to date.
 - i. Utilizing inappropriate pain medication protocol for surgical procedures, specifically injectable Metacam® only.

Such conduct constitutes unprofessional conduct pursuant to s. 1 (n.l) (i), (ii), (vii), (x) and/or (xi) of the *Veterinary Profession Act*, R.S.A. 2000, c. V-2, as amended.

The following documents were accepted as Exhibits at the Hearing:

1. Notice of Hearing;
2. Notice to Attend;
3. Investigation Report;
4. Affidavit of Service;
5. Admission of Unprofessional Conduct;
6. Proposed Consent Order.

The agreed facts presented to and accepted by the Hearing Tribunal are as follows:

AGREED STATEMENT OF FACTS:

1. Dr. Serfas has been a registered veterinarian with the ABVMA since 1997.
2. Dr. Serfas is the registered owner and responsible veterinarian at Forestburg Veterinary Clinic (1998) Ltd. (“FVC”) in Forestburg, Alberta.
3. Dr. Serfas was subject to professional conduct proceedings with findings and sanctions imposed upon him in May 2014.
4. Dr. Serfas subject to professional conduct proceedings with findings and sanctions imposed upon him in April 2016.
5. At present there are no outstanding sanctions relating to Dr. Serfas’ obligations to satisfy the orders contained in the 2016 Order.
6. As a result of the May 2014 proceedings, the Hearing Tribunal orders are as follows:
 7. *“Dr. Serfas’ practice shall be subject to practice audits by a practice auditor approved by the ABVMA twice yearly for a period of two (2) years (two which will be announced and two audits which will be unannounced). This audit shall focus on but not limited to medical records, anesthesia protocols, pain management and office management. Dr. Serfas shall pay the costs of these practice audits and shall provide any information requested by and to the auditor. The result of the practice audit shall be provided to the Complaints Director and PIPs Committee and subject to their approval.”*

8. Practice audits performed by Dr. Chris Belan on the following dates: January 6, 2015, March 26, 2015, February 18, 2016 and January 19, 2017.
9. Notwithstanding this Order of the Hearing Tribunal of May 2014 specified that two of the audits were to be on an announced basis and two were to be unannounced, all four audits were announced to Dr. Serfas as a result of the nature of his practice as a sole practitioner and the geographical location of the practice.
10. The audits with respect to January 16, 2015 and January 19, 2017 (audits 1 and 4) were unsuccessful and Dr. Serfas' practice did not pass the audits.
11. There were ongoing significant deficiencies with respect to all four audits.
12. As the practice audits were pursuant to the Order of the Hearing Tribunal, the PIPS Committee made the decision on February 25, 2017 to refer the matter back to the ABVMA Complaints Director for failure to comply with the sanctions of the Hearing Tribunal.

AGREED FINDINGS OF THE HEARING TRIBUNAL

Contravening an Order of the Hearing Tribunal

1. That Dr. Serfas failed to successfully satisfy the Practice Inspection Practice Standards Audits of January 16, 2015 and January 19, 2017 as ordered by the Hearing Tribunal.
2. That in failing the practice audits of January 16, 2015 and January 19, 2017, Dr. Serfas failed to maintain the appropriate minimum PIPS standards.
3. That in the four required PIPS audits pursuant to the order of the Hearing Tribunal, Dr. Serfas demonstrated ongoing deficiencies with respect to the minimum practice standards including as follows:
 - a. Large animal record deficiencies including:
 - i. Inability to locate or produce a medical record related to the sale of a prescription product
 - ii. Medical records that were located or produced lacked documentation of the medical need for the prescription products
 - iii. Medical records that were located or produced lacked documentation of appropriate dispensing
 - b. Failure to have an adequate prescribing protocol in place.
 - c. Undertaking a number of surgical procedures for which sufficient trained and registered staff were not available.

- d. Lack of documented client informed consent that a dedicated anesthetist was not available for surgeries
- e. Ongoing issue of incomplete medical records and misplaced records
- f. Lack of appropriately registered staff in place to whom dispensing activities are delegated.
- g. Undertaking an inappropriate volume of small animal surgeries given the clinic resources.
- h. Controlled drug logs were not accurately up to date.
- i. Utilizing inappropriate pain medication protocol for surgical procedures, specifically injectable Metacam® only.

Such conduct constitutes unprofessional conduct pursuant to s. 1 (n.l) (i), (ii), (vii), (x) and/or (xi) of the *Veterinary Profession Act*, R.S.A. 2000, c. V-2, as amended.

ACKNOWLEDGMENT OF RESPONSIBILITY

It is acknowledged by the ABVMA and Dr. Serfas that his conduct as described above constitutes unprofessional conduct. Dr. Serfas has accepted responsibility for his conduct pursuant to s. 35.1 of the *Veterinary Profession Act*.

NO RIGHT OF APPEAL

The ABVMA and Dr. Serfas agree that there shall be no right of appeal from this Consent Order.

SANCTIONS AND REASONS OF THE HEARING TRIBUNAL OF THE ALBERTA VETERINARY MEDICAL ASSOCIATION (ABVMA)

The decision of the Hearing Tribunal is to accept the joint submission of ABVMA and Dr. Jeff Serfas regarding the consent order (including agreed statement of facts, agreed findings of the Hearing Tribunal, Acknowledgment of Responsibility, and Orders as to Sanctions) in its entirety.

The Alberta Veterinary Medical Association Hearing Tribunal finds Dr. Serfas guilty of unprofessional conduct in contravening an order of the Hearing Tribunal (May 2014). As per the admission of unprofessional conduct, Dr. Serfas failed to satisfy the Practice Standards Practice Inspection Standards Audits of January 16, 2015 and January 19, 2017. This failure to maintain minimum standards has been seen to occur in a repeated and ongoing fashion despite sanctions by previous ABVMA Hearing Tribunals. Such failure to maintain minimum standards were evidenced in medical record keeping deficiencies, inappropriate prescribing/dispensing, inappropriate client informed consent, improper delegation of veterinary duties, and inappropriate pain medication protocols, among others.

ORDERS AS TO SANCTIONS

As a result of the findings of the Hearing Tribunal with respect to allegations of unprofessional conduct, the Hearing Tribunal makes the following orders in accordance with s. 41.1 of the Act.

1. A reprimand shall be issued against Dr. Serfas.
2. Dr. Serfas shall be suspended from the practice of veterinary medicine for a period of six (6) months commencing on August 12, 2017.
3. Dr. Serfas shall repeat the orders contained in paragraph 4 of the Consent Order of 2014 relating to continuing education to the extent he feels necessary to satisfy his responsibility with respect to all Practice Inspection Practice Standards (“PIPS”) inspections.
4. Dr. Serfas shall pay fines in the amount of \$30,000.00 (representing a \$10,000.00 fine for each of the findings of unprofessional conduct contained in the Notice of Hearing). The files shall be paid within eighteen (18) months of the date of this Order.
5. Dr. Serfas’ practice shall be subject to monthly practice audits by a practice auditor approved by the ABVMA in conjunction with the Complaints Director for a period of one (1) year (All of which will be unannounced). These audits shall focus on all issues referenced in the Orders or 2014, 2016 and 2017 regarding Dr. Serfas’ unprofessional conduct. Dr. Serfas shall pay all costs of these practice audits and shall provide any and all information requested by the auditor and/or Complaints Director. The results of the practice audits shall be provided to the Complaints Director and PIPS Committee and subject to their approval.
6. In the event that Dr. Serfas does not properly satisfy any two (2) practice audits as referenced above in paragraph 5, the Complaints Director in his own discretion shall be entitled to suspend Dr. Serfas from the practice of veterinary medicine pending a Hearing into allegations of unprofessional conduct resulting from the breach of this Order.
7. Further, if the Complaints Director deems there to be a violation of this Order, including but not limited to a determination there has been practice of veterinary medicine during the period of suspension or failure of any two (2) practice audits as unilaterally deemed by the Complaints Director, Dr. Serfas shall upon notice by the Complaints Director and/or the Registrar be suspended from the practice of veterinary medicine pending a Hearing into allegations of unprofessional conduct resulting from the breach of this Order. The Complaints Director and/or the Registrar shall maintain this discretion until such time as all provisions of this Order are satisfied including any practice audits referenced in paragraph 5.
8. Dr. Serfas shall pay costs in the amount of \$10,000.00 payable within six (6) months from the date of this Order.
9. There shall be publication of this Order on a “with names” basis.

REASONS FOR DECISION ON SANCTIONS

In discussing the suitability of sanctions agreed upon in the joint submission, the Hearing Tribunal considered whether such sanctions would satisfy the ABVMA mandated responsibility for protection of the public of Alberta, serve as a deterrent to Dr. Serfas and the ABVMA membership in general, serve to rehabilitate Dr. Serfas with regard to meeting at least minimum practice standards as determined by ABVMA, were equitable and fair compared to sanctions of other members guilty of similar infractions, and protect the integrity of the veterinary profession in Alberta. The Hearing Tribunal considered aggravating factors that would lead to more harsh sanctions; these included Dr. Serfas' experience and length of time in practice (20 years), the fact that he has been before the Hearing Tribunal on previous occasions, and the fact that he also failed to satisfy a previous order of the Hearing Tribunal. The Hearing Tribunal did consider the fact that Dr. Serfas was willing to accept responsibility for his actions as factor that could lead to more leniency in application of sanctions. However, given his history with the Hearing Tribunal, concern was expressed that until and unless Dr. Serfas fully satisfies the sanctions decided on herein, the level of his acceptance of responsibility is open to question.

In determining the appropriateness of each of the sanctions, the Hearing Tribunal considered:

Sanction 1

A reprimand that shall remain on Dr. Serfas' record is fair, and should act as a deterrent for future unprofessional conduct by Dr. Serfas and others. As a permanent record it also acts to protect the public.

Sanction 2

Considerable discussion was devoted to the length of suspension from practice of veterinary medicine. Members of the Hearing Tribunal did comment that the egregious nature of ongoing deficiencies could warrant a longer suspension, and noted that Dr. Serfas himself thought that the length of suspension was too long. The Hearing Tribunal considered that two previous one month suspensions did not appear to have the desired effect with Dr. Serfas, but also that as a sole practitioner in a rural area, a one-year suspension could ultimately result in loss of veterinary services to that community. A 6 month suspension is severe enough a sanction to act as a strong deterrence to Dr. Serfas and others. Additionally this suspension protects the public and mandates time away from the practice of veterinary medicine such that Dr. Serfas will be able to pursue rehabilitative efforts. A six month suspension was deemed fair to Dr. Serfas. The Hearing Tribunal is concerned that Dr. Serfas might not satisfy the demands of this sanction by choosing to engage in some aspect of veterinary practice or being present at his clinic during operating hours while his suspension is ongoing. The Hearing Tribunal noted that any such failure on his part could result in a significantly longer suspension or even in the loss of Dr. Serfas' ability to practice all together.

Sanction 3

The Hearing Tribunal supports the requirement for Dr. Serfas to repeat educational requirements of the May 2014 Order in that it should lead to rehabilitation of his ability to practice within standards of the ABVMA. Consideration was given to the fact that previously mandated courses may not be available, and repetition of similar courses may not be of benefit to Dr. Serfas. However, the Hearing Tribunal encourages Dr. Serfas to avail himself of courses, training and mentorship that can be made available, such that he will be able to return to practice in a more competent manner than present. Mandated educational upgrading is routinely required of members found guilty of unprofessional conduct. This will be to the member's benefit as well as lead to protection of the public and help deter future professional misconduct in the form of practicing below ABVMA standards, thereby also protecting the integrity of the profession.

Sanction 4 and 8

Given the repeated and ongoing nature of Dr. Serfas' failure to maintain minimum standards of practice as per ABVMA requirements, the Hearing Tribunal believes it is fair to require Dr. Serfas to pay costs in the amount of \$10,000 within six months of this Order, and \$30,000 in fines (\$10,000 per finding of unprofessional conduct, the maximum allowed as per the *Veterinary Profession Act* 41.1 (1) (k)). A large fine is needed to act as deterrent to Dr. Serfas and others; the Hearing Tribunal is showing leniency and recognizing the financial impact of a six month suspension by allowing the fine to be paid back up to a year after the end of his suspension.

Sanction 5

Given Dr. Serfas' history with previous Hearing Tribunal sanctions and repeated deficiencies in practice audits, the Hearing Tribunal believes that for protection of the public more frequent audits as mandated by this sanction are essential.


Sanctions 6 and 7

Without an ability to act quickly in the case of Dr. Serfas' failure to satisfy practice audits, the public would not be suitably protected from substandard veterinary practice. Given Dr. Serfas' additional history of failure to comply with a previous Hearing Tribunal sanction, the Hearing Tribunal believes this sanction also to be fair and reasonable and in the best interest of public protection.

Sanction 9

Members of the Hearing Tribunal were all agreed that publication of this Order “with names” is essential to act as a strong deterrent for similar unprofessional conduct. Hearing Tribunal members wondered whether publication on the ABVMA website alone would go far enough in protection of the public; suggestions were made that publication in local newspaper(s) or affixed to the door of Dr. Serfas’ clinic might be more appropriate. Given the length of suspension the Hearing Tribunal agreed that publication with names on the ABVMA website would satisfy protection of the public. However, to help protect the integrity of the profession, all members of the Hearing Tribunal agreed that should any of the sanctions be violated, the ABVMA would be obligated to take additional steps to ensure the public was made more aware of the details of Dr. Serfas’ unprofessional conduct and his suspension.

HEARING TRIBUNAL OF THE ALBERTA VETERINARY MEDICAL ASSOCIATION



Dr. Louis Kwantes, Chairperson
Hearing Tribunal of the
Alberta Veterinary Medical Association

August 16, 2017

Date