

IN THE MATTER OF THE VETERINARY PROFESSION ACT, RSA 2000, c V-2,
AS AMENDED;

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

AND INTO THE MATTER OF A COMPLAINT BY JULIE MITCHELL

PROCEEDINGS HELD BY VIDEOCONFERENCE
OCTOBER 21 and 22, 2020

REASONS FOR DECISION

A public hearing into the conduct of Dr. Jun Yang was convened on October 21 and 22, 2020, pursuant to the *Veterinary Profession Act* RSA 2000, c V-2 as amended (the “Act”). The hearing was conducted by videoconference due to the concerns arising from the COVID-19 pandemic.

Pursuant to this hearing, the Alberta Veterinary Medical Association Hearing Tribunal is issuing its reasons for its decisions on the issue of unprofessional conduct and its reasons for sanction.

The members of the Hearing Tribunal were:

Dr. Lloyd Keddie (Chair)
Dr. Calvin Booker (Member)
Dr. Robert Coppock (Member)
Mr. Brian Marcotte (Public Member)

Mr. Matthew Woodley attended as independent legal counsel to the Hearing Tribunal.

Ms. Karen Smith and Ms. Nancy Tran attended as legal counsel for the Complaints Director of the ABVMA.

Dr. Yang did not attend the hearing, and was not represented by legal counsel.

The Amended Notice of Hearing and Amended Notice to Attend were marked as Exhibits 1 and 2 respectively, and a full list of Exhibits is set out in Appendix “A”.

PRELIMINARY MATTERS

Absence of the Member

Following the opening of the hearing, the Hearing Tribunal heard an application by legal counsel for the Complaints Director regarding the non-attendance of Dr. Yang. The Hearing Tribunal waited for 15 minutes following the scheduled start time of the hearing to determine whether Dr. Yang would attend.

It then heard submissions from legal counsel for the Complaints Director about proceeding in the absence of Dr. Yang.

Legal counsel for the Complaints Director provided the Hearing Tribunal with a summary of the events leading up to the hearing, including the multiple adjournments of the hearing and Dr. Yang's engagement with the process. It is abundantly clear that Dr. Yang had been represented by two previous lawyers, and was well aware of the allegations against him and the hearing dates (see eg Exhibits 11, 12, 16 and 17). Specifically, his previous counsel, Scott MacMillan, confirmed with legal counsel for the Complaints Director on October 14, 2020, that Dr. Yang "has received the ABVMA's materials, proposed panel member and witness lists, and notice of the WebEx meeting particulars required to attend the upcoming Disciplinary Hearing, including the test-run on Tuesday, October 20, 2020." Despite that, Dr. Yang chose not to attend the hearing.

The Hearing Tribunal was satisfied that the Complaints Director had proven that Dr. Yang was aware of the scheduled hearing dates, that he had been properly served pursuant to section 39 of the VPA, and that he had in fact been in email communication with legal counsel for the Complaints Director up to and including the morning of the hearing. It is also clear that Dr. Yang specifically chose not to attend the hearing despite his knowledge of it. For those reasons, the Hearing Tribunal granted the application of the Complaints Director to proceed with the hearing in the absence of the member pursuant to section 40(6) of the VPA.

Concerns Regarding Delay

Based on the information set out above, the Hearing Tribunal understands that Dr. Yang's reason for not attending the hearing relates to his concerns that the hearing has been unreasonably delayed and that he did not agree to the adjournment of the hearing in March of 2019. Given the fact that this issue arises on the face of the exhibits, the Hearing Tribunal believes that it is appropriate for it to address the issue.

First, where a member subject to an investigation and a hearing wishes to raise concerns regarding delay and the impact that delay ought to have on a proceeding, it is incumbent on the member to attend the hearing and raise that argument with the Hearing Tribunal. This would permit the Hearing Tribunal to consider any argument relating to unreasonable delay in the context of the facts before it and to render a decision on that issue as a preliminary matter. Refusing to attend a hearing under the VPA because of a concern regarding delay undermines the objective of the legislation, which is to protect the public interest in part by ensuring that the profession is able to self-govern.

Second, on the substantive issue relating to delay, the evidence before the Hearing Tribunal indicates that while the matter took longer than most investigations to get to a hearing, the reasons for the delay were fully explained and in several instances resulted from requests for adjournments or unforeseeable circumstances beyond the control of the Complaints Director.

The initial complaint was received by the Complaints Director on April 14, 2016, and Dr. Yang was charged with offences under the *Criminal Code* (Canada) and the *Animal Protection Act* (Alberta) on June 24, 2016. Perhaps the most serious allegation set out in the Amended Notice of Hearing is specifically based on the findings of guilt arising from those charges, and it would not have been possible to proceed with a hearing with those charges outstanding. Indeed, Dr. Yang was not convicted of those offences until June 19, 2017, and Dr. Yang was not sentenced until March 16, 2018. The investigation, which had been put on hold pending the outcome of the criminal and regulatory charges, recommenced following the conviction. While the evidence indicated that there may have been some delay as a result of the schedule of the assigned investigator, given the ongoing criminal and regulatory proceedings the delay was not unreasonable. The evidence of Dr. Ken Keeler is that he submitted his report to the Complaints Review Committee ("CRC") on October 11, 2018, and the CRC referred the matter to a hearing on December 11, 2018.

The hearing was then set for May 6-7, 2019 and Dr. Yang was served with materials for that hearing on March 17, 2019 [Exhibit 11]. Dr. Yang then advised the Complaints Director that he was appealing the decision on conviction on the criminal and regulatory charges. Having regard for the centrality of the convictions to the allegations in the Notice of Hearing, the Complaints Director sought Dr. Yang's agreement to adjourn the hearing. No agreement was forthcoming, and given the nature of the allegations the Complaints Director adjourned the hearing. Dr. Yang appeared before the Court of Queen's Bench on his appeal from conviction on August 22, 2019; the following day his appeal was dismissed by the Court.

New hearing dates were set for November 26-27, 2019. The evidence indicates that the Complaints Director made inquiries with Dr. Yang's legal counsel who assisted him in responding to the complaint and who represented him at trial and on appeal about whether he continued to represent Dr. Yang, and no reply was received. Dr. Yang was served with hearing documents on October 19, 2019, and pursuant to a request from Dr. Yang, he was also served by email on October 23, 2019. The materials were then provided to Dr. Yang again on November 12, 2019 by email [see Exhibit 11]. On November 25, the day before the hearing dates, legal counsel for Dr. Yang contacted legal counsel for the Complaints Director to confirm that he was acting but had not been given copies of the relevant document. The hearing was therefore adjourned. Any delay resulting from this adjournment is not the responsibility of the Complaints Director; it is clear that Dr. Yang was properly served and any lack of communication between Dr. Yang and his counsel was beyond the Complaints Director's control.

As a result of that adjournment, the hearing was rescheduled for March 9-11, 2020. On March 8, 2020, Dr. Yang's legal counsel was appointed to the Court of Queen's Bench, and Dr. Yang was left without legal counsel as a result. The hearing was therefore adjourned, and immediately thereafter the COVID-19 pandemic arose in Alberta, making it largely impossible to reschedule a hearing over the next few months. The hearing was ultimately rescheduled for October 21-23, 2020. At that time, Dr. Yang was represented by new counsel, who agreed on those dates; that lawyer withdrew from the record the week before the hearing [see Exhibit 12]. For the reasons noted above the hearing proceeded in Dr. Yang's absence.

Although the Hearing Tribunal had no application before it in relation to the issue of unreasonable delay, it considered the issue in the interests of fairness to Dr. Yang. While the Hearing Tribunal acknowledges that it did not have the benefit of submissions on the issue from Dr. Yang, the Hearing Tribunal cannot conclude that the delay in this matter was unreasonable, or that it amounts to a deprivation of Dr. Yang's right to a timely hearing. There is no suggestion that witnesses or documents were no longer available, nor any evidence relating to the impact on Dr. Yang of the delay itself. Given the nature of the issues set out in the Amended Notice of Hearing, and the efforts by the Complaints Director to schedule the hearing on multiple occasions, the Hearing Tribunal concludes that there was no unreasonable delay in this matter.

One other issue arose during the evidence of the Complaints Director. As set out above, the original complaint in this matter was received by the Complaints Director on April 14, 2016. However, no action was taken in relation to the complaint until May 16, 2016. The Complaints Director stated that the slight delay in dealing with the complaint arose due to the ABVMA's involvement in the evacuation of animals from the Fort McMurray area due to the wildfires. The Hearing Tribunal specifically questioned legal counsel for the Complaints Director regarding whether any issue arises due to this delay having regard for section 28(1) which states: "Within 30 days of being given a complaint, the Complaints Director must give notice to the complainant of the action taken with respect to it." Legal counsel for the Complaints Director submitted that nothing turned on this non-compliance with the 30-day time period in the circumstances of this case. The Hearing Tribunal agrees. While the language set out in section 28(1) uses "must", it would be inconsistent with the public interest underlying the legislation for a technical non-compliance with the section to invalidate the subsequent proceedings. In the context of the legislation, the Hearing Tribunal finds that "must" in these circumstances is not mandatory in the sense that a technical failure to abide by the timeline invalidates the proceedings thereafter.

DECISION ON UNPROFESSIONAL CONDUCT

The Amended Notice of Hearing sets out eight allegations against Dr. Yang. The Hearing Tribunal considered the evidence adduced in support of each allegation, and then considered whether the proven conduct amounts to unprofessional conduct pursuant to section 1(n.1) of the VPA. During the hearing, the Hearing Tribunal delivered a brief oral decision setting out its findings with respect to each of the allegations below, with reasons to follow. The decision of the Hearing Tribunal on the allegations and the reasons for those conclusions are set out below.

Allegation 1

That on June 19, 2017, you were convicted of the following:

- i. Count One: You did willfully cause or being the owner did willfully permit to be caused unnecessary pain or suffering or injury to two canines by choking, punching,*

kicking and striking with a cow bone, contrary to section 445.1(1)(a) of the Criminal Code of Canada.

- ii. *Count Two: You did cause an animal, two canines, to be in distress, contrary to section 2(1.1) of the Animal Protection Act.*
- iii. *Count Three: You failed to ensure an animal, two canines, had adequate food and water, contrary to section 2.1 of the Animal Protection Act.*
- iv. *Count Four: You did fail to provide the animal, two canines, with adequate shelter, ventilation and space, contrary to section 2.1 of the Animal Protection Act.*

In his evidence, the Complaints Director identified a one-page document as a Conviction arising from the charges set out in Allegation 1. Further, the decision of the Provincial Court of Alberta convicting Dr. Yang of those charges was set out as Tab 8F of the Investigation Report [Exhibit 14]. Finally, the Written Reasons for Oral Decision of Mr. Justice W.N. Renke in *R v Yang*, 2019 ABQB 716 was entered as Exhibit 10. It was therefore proven that Dr. Yang was, in fact, convicted of the offences set out in the Amended Notice of Hearing.

The Hearing Tribunal concluded that the fact of these convictions is clear and convincing evidence of unprofessional conduct as defined under the VPA. Specifically, the Hearing Tribunal considered the findings of fact of the Provincial Court and the nature of the offences. While it is not every conviction for criminal or regulatory offences that will result in unprofessional conduct, the nature of the offences here clearly meet the threshold. These convictions relate to the conduct of a veterinarian in relation to his conduct towards animals in his care. The nature of the conduct here is clearly conduct that “harms the integrity of the profession” (s 1(n.1)(xi)) and also represents a breach of sections 16.1(a) (g) and (h) of the *Veterinary Profession General Regulation*, Alta Reg 44/1986 (s 1(n.1)(ii)).

For those reasons, the Hearing Tribunal finds Dr. Yang guilty of allegation 1.

Allegation 2

That you made inappropriate comments to your staff, JM, SS, CG, that were considered insulting, demeaning and/or offensive to them.

In support of this allegation, the Complaints Director adduced evidence from four former employees of Dr. Yang’s veterinary clinic: Dr. Pimprapar Wongsrikeao, Ms. Julie Mitchell, Ms. Danielle Decoste, Ms. Sasha Simons, and Ms. Carol-Anne Gautreau (RVT).

Dr. Wongsrikeao’s evidence was that Dr. Yang had a temper and that this arose in his interactions with the staff members. In relation to her interactions with Dr. Yang, she said that in general Dr. Yang did not make inappropriate comments to her. She did hear Dr. Yang make rude comments to Ms. Gautreau and to another employee. Specifically, she recalls Dr. Yang called Ms. Gautreau “stupid” when she

apparently provided him with the wrong tool. The only other information Dr. Wongsrikeao had in relation to this issue was hearsay based on what she had been told by other employees.

Ms. Mitchell's evidence on this issue was that when Dr. Yang did not agree with a statement made by her, he would become defensive, would attempt to make himself appear physically larger, would lower his voice and would lean into her space and glare at her. She testified that Dr. Yang would swear at employees, and would make statements about how "stupid" or "dumb" the employee was. She states that in some instances Dr. Yang's conduct made her feel scared and in every instance, intimidated. She stated that for the first two weeks these interactions did not happen, but that after that they would happen approximately once per week, and then more regularly thereafter. She also observed Dr. Yang referring to Ms. Gautreau as "stupid".

Ms. Decoste testified that for the majority of her time working with Dr. Yang, he did not make any rude comments to her, but that she did witness Dr. Yang being very rude to another employee but cannot recall her name. She states that he was very rude to her at the end of the employment relationship after she indicated to him that she was not interested in a personal relationship with him. She stated that he would yell at her, say that she didn't do anything right, and call her stupid.

Ms. Simons also testified on this issue. She stated that Dr. Yang did not generally direct inappropriate comments to her until she handed in her resignation. After that occurred, she said that he was very short and angry with her, and would tell her that things were not her concern. She overheard Dr. Yang swearing at other employees, telling them that they were no good, were a waste of time, and that they were "fucking idiots". She stated that some of these comments were made when the subjects of them were not present. She stated that when he started to direct these comments to her, she felt useless and like she did not belong at the clinic, and it made her wonder whether this was how Dr. Yang felt about her all along.

Finally, Ms. Gautreau testified that her experience at the clinic was very unfortunate and that she would not wish it on her worst enemy. She stated that Dr. Yang would always talk down to her and would call her a "stupid girl". She stated that she observed Dr. Yang speaking in a similar fashion to Ms. Mitchell and Ms. Simons. She stated that Dr. Yang would swear at her on a daily or every-second-day basis and would raise his voice, use demeaning language, would puff up his chest and try to make himself look bigger and more intimidating. She stated that she did not work with Ms. Decoste and did not observe Dr. Yang's interactions with her.

The Hearing Tribunal finds that each of the witnesses noted above gave their evidence in a forthright manner with an honest intention to accurately recall the events that they described. The descriptions provided by the witnesses paint a disturbing but consistent picture of what it was like to work under Dr. Yang at the clinic. Referring to employees as "stupid" and "dumb", swearing at employees and acting in an aggressive and intimidating manner is clearly inappropriate. The factual basis set out in the allegation is proven on balance of probabilities.

The Hearing Tribunal must consider whether the proven facts constitute unprofessional conduct. Specifically, the Hearing Tribunal has considered whether the proven conduct is “conduct that harms the integrity of the profession” (s 1(n.1)(xi)) or which demonstrates a failure to “serve clients, members of the public and fellow members of the profession with integrity” or to “maintain conduct characterized by courtesy and good faith, with a mutual interchange of counsel and assistance” (s 1(n.1)(ii), Regulations, section 16.1(b) and (i)). The Hearing Tribunal has concluded that the proven conduct does, in fact, satisfy these elements of the definition of unprofessional conduct. First, the Hearing Tribunal notes that the inappropriate, discourteous and disrespectful conduct engaged in by Dr. Yang was not limited to one outburst, or to a circumstance which reflected a passing or technical non-compliance with the expectations of the profession. On the contrary, a number of witnesses testified that they both endured and observed others enduring this conduct over a long period of time, in a consistent manner. In relation to section 16.1(b) of the regulations, Ms. Gautreau was a member of the profession and endured Dr. Yang’s unacceptable behavior for the entire period of her employment. Such conduct on the part of a veterinarian – particularly as the owner of the clinic employing these young women – reflects poorly on the profession as a whole and thereby harms the integrity of the profession. It does not reflect conduct characterized by courtesy and good faith, particularly having regard to the position of power that Dr. Yang had over his employees.

For those reasons, the Hearing Tribunal finds Dr. Yang guilty of allegation 2.

Allegation 3

That you failed to properly provide for the clinic cats, Topaz and Blackberry.

The Hearing Tribunal heard disturbing and consistent evidence with respect to the care provided by Dr. Yang to the two clinic cats, Topaz and Blackberry. In considering the evidence in relation to the treatment of the two cats, the Hearing Tribunal was careful not to consider the evidence lead in relation to Allegation 1 as making it more likely that the evidence relating to the treatment of the cats was true. Rather, the Hearing Tribunal focused on the evidence provided by the witnesses on this issue.

Dr. Wongsrikeao testified that during her time at the clinic, the cats were mostly kept in a cage in the isolation room and that the lights in the room were kept off most of the time. She stated that they would only come out for feeding, and while Topaz got to go to Dr. Yang’s farm from time to time, Blackberry was mostly kept in the cage. She stated that when they were let out to eat, it would be for about 10-15 each day of play time. She confirmed that her observation was that the cats were kept in the cage for 23.5 hours each day. She stated that while they had some interaction with people it was not enough and that they were not treated like a typical clinic animal. She stated that she never saw Dr. Yang physically harm the cats, and that she was not aware of whether they were given adequate food and water, because the staff were usually responsible for that.

Ms. Mitchell testified that when she started at the clinic, the cats were kept in the isolation room, which was a small internal room with no windows. She stated that they were kept in one large isolation kennel

and that the light in the room was not kept on unless there were client animals present. She stated that the rationale provided by Dr. Yang was that there were photosensitive medications in the room, but she was only aware of one that was kept under paper towel. She stated that the cats had one towel or blanket, one food bowl, one water bowl and one small litter box to share. She states that when the dog Bingo was brought to the clinic, the cats were moved to another interior room and that the light was again kept off. She stated that staff was instructed by Dr. Yang not to give them any attention or interact with the cats in any manner. She stated that Dr. Yang told them that he let the cats out overnight, but that based on her observations on late and early shifts, she saw no indication that this actually happened. She stated that she tried to use passive questions to try to deal with the cats, suggesting that they try to find homes for the cats. She stated that Dr. Yang declawed the cats.

Ms. Decoste testified that she was there when Topaz came to the clinic, and that it was kept in the isolation room in a cage with a small litter box. She stated that the cat was only fed and watered once per day and that if she tried to do it more often, Dr. Yang would yell at her and tell her that the cat only needed to eat a specific amount once per day and that she was not educated. She stated that she was told to leave the cat in the cage and that she never saw the cat out of the cage while she worked at the clinic. She testified that she did not see Dr. Yang being physically abusive to the cat.

Ms. Simons also gave evidence relating to Topaz and Blackberry. She testified that the cats were always housed together in a kennel either in the isolation room with the door closed and the lights off, or in the observation room with the lights off. She stated that the staff was not allowed to go in to replenish the food or water even if the cats had spilled them during the day. They were instructed not to interact with the cats other than as required to feed, water and change the litter box once per day. In response to a question from the Hearing Tribunal, Ms. Simons stated that while there was concern about the treatment of the cats when the dogs were seized by bylaw, her understanding was that there were no charges relating to the cats because of the stronger photographic evidence relating to the mistreatment of the dogs.

Ms. Gautreau testified that the cats were housed in one kennel in the treatment area. She stated that they had food and water more often than not and that they would get let out occasionally, but not for very long. She stated that immediately before the dogs were seized, the cats were put into the isolation room and were left to roam in that room. She stated that the staff was told not to let them out of the kennels because Dr. Yang would let them out later in the day, but she doesn't know whether he, in fact, did that. She stated that in her view the cats were treated better than the dogs and that it appeared that Dr. Yang appreciated them more; she did not see him being physically abusive with the cats.

In considering this allegation, the Hearing Tribunal acknowledges that the evidence of Ms. Gautreau differed with respect to how often and for what period of time the cats were let out of the cage. However, the Hearing Tribunal has concluded that there is no material inconsistency in the evidence of the witnesses on this issue. Ms. Gautreau's observation of the cats was for a period of time immediately prior to the involvement of bylaw enforcement and the seizure of the clinic dogs, and following Bingo's disappearance. It is possible that the treatment of the cats improved in that timeframe, but it does not

call into question the consistent evidence given by the other witnesses relating to the treatment of the cats in the prior timeframe.

The evidence is clear that the cats were left in a kennel for an unacceptable period of time, and up to 23.5 hours per day. Further, the evidence of the witnesses was consistent with respect to the cats being kept for many hours in a dark room, and only being interacted with on a very limited basis. The evidence is also consistent that the instructions provided by Dr. Yang were that staff were not to interact with them, and to limit their feeding and watering to once per day. The Complaints Director has established on a balance of probabilities that Dr. Yang failed to properly provide for the clinic cats Topaz and Blackberry with respect to their basic needs, including interaction, exercise, lack of light, unreasonable containment and access to food and water.

It is beyond doubt that such conduct is unprofessional on the part of a veterinarian. This is clearly conduct that harms the integrity of the profession (s 1(n.1)(xi) and conduct that contravenes section 16.1(a), (g) and (h) of the Regulations (s 1(n.1)(ii)).

For those reasons, the Hearing Tribunal finds Dr. Yang guilty of allegation 3.

Allegation 4

That you abused and/or failed to properly provide for Bingo, the clinic border collie.

The Hearing Tribunal heard evidence about a clinic dog that belonged to Dr. Yang, and which he brought to the clinic on a regular basis until the dog disappeared. Dr. Wongsrikeao testified that she could not recall what kind of dog Bingo was, but that he was a puppy when Dr. Yang began to bring him to the clinic. She stated that she did not observe Dr. Yang's interaction with Bingo other than one occasion. She did not see any physical force or harm being applied to Bingo by Dr. Yang, and did not know of any concerns with respect to the provision of adequate food or water. She heard from others that Bingo ran away, but had little direct knowledge about the dog.

Ms. Mitchell also testified regarding Bingo. She stated that in January of 2016, Dr. Yang asked her to make inquiries to find a breeder with available border collies for use on his acreage. She stated that she made inquiries but dragged her feet as much as she could due to her concerns about how the other dogs were treated. She says that Bingo came to the clinic as an 11-week old puppy in January and was at the clinic for about three weeks. She says that he was placed in the isolation room and that the staff was told by Dr. Yang not to interact with Bingo except if they were taking him outside once in the morning and once at night. She says that, like other clinic animals, Bingo was fed and watered only once per day, and that during clinic hours he was housed in the isolation room kennels for up to 23.5 hours each day, with the lights often off. She states that when he whined or barked, Dr. Yang would muzzle him, and that by the end of his three weeks in the clinic he was muzzled nearly all of the time. She stated that from time to time Dr. Yang would instruct the staff not to feed or water Bingo, on the basis that Dr. Yang would do it when he was there alone with the dog. She stated that she would try to sneak in water from

time to time but that otherwise the instructions to not interact with Bingo were strict. Ms. Mitchell testified that she believes that Bingo was beaten to death by Dr. Yang, but she acknowledged that she had no personal knowledge of this allegation. She stated that she didn't observe Dr. Yang hitting the dog, but believes that he used the same approach as with the other dogs. Ms. Mitchell provided evidence about the basis for her suspicion regarding what happened to Bingo in spite of the information that Dr. Yang provided on that issue, which was that he saw a rabbit and ran away. The Hearing Tribunal does not accept Ms. Mitchell's evidence to the extent that she speculates on what happened to Bingo, and it does not make any findings with respect to that issue. Ms. Mitchell also gave evidence about seeing a muzzle after Bingo's disappearance which appeared to have been chewed through; however, other witnesses did not recall any such incident, and the Hearing Tribunal places no weight on that evidence.

Ms. Simons' evidence regarding Bingo was largely consistent with Ms. Mitchell's. She stated that staff were not allowed to interact with Bingo and that she was not allowed to feed or water Bingo. She stated that he was housed in a small kennel in the isolation room with the door closed and lights off. She confirmed that he had a muzzle on him often because he barked a lot, and that the muzzle was on 24 hours per day at times. She did not recall seeing Dr. Yang physically abuse Bingo or interacting with him. She does not recall Bingo being taken to the farm. She says that she was told that Bingo ran away, and recalls seeing a bite mark on Dr. Yang's arm the day after he disappeared, which he stated was caused by the dog. She had no recollection about a muzzle or it being chewed through. Under questioning by a member of the Hearing Tribunal, she confirmed that she observed Bingo being muzzled for excessive periods of time, including for whole shifts of eight hours.

Ms. Gautreau testified that Bingo was noisy, barked a lot and made a mess in his kennel. She stated that she would find a lot of urine and feces in his kennel in the mornings and that as far as she knew he was kept there every night. She stated that she did not know whether Dr. Yang took the dog home at times. She confirmed that the dog was there for approximately a month, and that he was kept in the isolation room with the lights out, and that she estimated that the dog spent 22-23 hours in the kennel. She recalls being told that Dr. Yang was training him so she was not to interfere in the training methods. She said that she was told at times not to feed and water Bingo because Dr. Yang would do it during training, and that she would sometimes find him without water in the morning because it had been spilled during the night. She was told not to play with Bingo or interact with him because Dr. Yang wanted the dog to bond with him. With respect to what happened with Bingo, she confirmed the evidence regarding a bite or scratch mark on Dr. Yang's arm the day after the dog disappeared, but ultimately had no personal knowledge of what happened with Bingo.

The Hearing Tribunal finds that there is no evidence that Dr. Yang physically abused the dog Bingo, but there is overwhelming evidence that Dr. Yang failed to properly provide for Bingo, and that such conduct constitutes abuse. It is clear that Bingo was housed for extended periods of time in a kennel in a dark room, was denied regular access to food and water, and was muzzled for unacceptable periods of time. Regardless of what ultimately happened to the dog, the evidence clearly indicates that Dr. Yang failed to provide adequate care to Bingo while he resided at the clinic.

The nature of the proven conduct in relation to Bingo is clearly conduct that “harms the integrity of the profession” (s 1(n.1)(xi)) and also represents a breach of sections 16.1(a), (g) and (h) of the *Veterinary Profession General Regulation*, Alta Reg 44/1986 (s 1(n.1)(ii)).

For those reasons, the Hearing Tribunal finds Dr. Yang guilty of allegation 4.

Allegation 5

That you failed to properly and safely dispose of the biomedical waste of HKVC.

The evidence on this issue was largely consistent, with one exception. First, the evidence of Dr. Wongsrikeao was limited: she was only aware of the mechanism for disposal of sharps, but not other material. Second, Ms. Decoste had no evidence about the disposal of medical waste.

However, Ms. Mitchell testified that medical waste was disposed of in the garbage can and down the sink and that anything solid from surgeries (including gloves, body tissues) was put into the garbage and that anything liquid (blood, puss, urine, watery fecal matter) were put down the sink. She stated that the garbage used for solid waste was put into the dumpster behind the clinic and would be emptied by a waste management company. Importantly, Ms. Mitchell indicated during questioning by the Hearing Tribunal that Dr. Yang instructed the solid waste to be disposed of in that manner. She stated that sharps were disposed of in used milk jugs or water jugs and would be put into the storage room; she testified that they were never picked up by anyone to be taken away while she worked at the clinic.

Ms. Simons confirmed that sharps were disposed of as described by Ms. Mitchell. With respect to solid waste, she stated that amputations and lumps that had been removed were put into the regular garbage, and that liquid waste including blood was put in the regular garbage or washed up, and soiled laundry was put into the washing machine.

Ms. Gautreau’s evidence confirmed the evidence of Ms. Mitchell and Ms. Simons regarding the disposal of sharps. However, she stated that medical waste from procedures were put into surgery garbage bags and would be put into the cremation freezer, and that they would go out with the general cremation materials. She stated that she observed that happening. Under questioning by the Hearing Tribunal, Ms. Gautreau confirmed her evidence on this point, but noted that she was only aware of what occurred for procedures that she was involved in; she did not know, and would not have had any real opportunity to know, what other employees did during their shifts.

The Hearing Tribunal has considered the evidence on this issue from each of the witnesses. Although Ms. Gautreau’s evidence is inconsistent with the evidence from both Ms. Mitchell and Ms. Simons, the Hearing Tribunal concludes that there is no material inconsistency between them. Ms. Gautreau is a registered veterinary technologist, and would presumably be aware of the obligations relating to the

disposal of medical waste. It is therefore not surprising that, for procedures in which she was involved, she disposed of medical waste in accordance with the requirements. The Hearing Tribunal accepts that the other witnesses, who were not similarly trained, were following the direction of Dr. Yang on these matters, and that Dr. Yang either knew or ought reasonably to have known about how they were handling the disposal of medical waste. It was ultimately Dr. Yang's responsibility to ensure that medical waste was disposed of in accordance with the requirements in place at the time. He failed to do so.

The Hearing Tribunal was provided a copy of the ABVMA Practice Inspection and Practice Standards Bylaws (November 2014) which was in force at the relevant time. Under US-5: Biosecurity & Biomedical Waste Management Standard, Operating Procedures, it states:

4. Biomedical waste shall be safely stored in one of the following:

- a. In a designated location with access limited to authorized personnel.
- b. At a waste transfer station used solely for the storage of biomedical waste.
- c. In adherence to the Public Health Act which states that it shall not create a public nuisance.

The evidence of Ms. Mitchell and Ms. Simons clearly indicates that Dr. Yang failed to ensure that medical waste (including body parts and tumors) were not disposed in accordance with this standard. The Hearing Tribunal is not able to conclude that Dr. Yang's practice in relation to the disposal of sharps contravened section 7 of that standard, however.

The Hearing Tribunal concludes that this conduct is "conduct that harms the integrity of the profession" (s 1(n.1)(xi)) and is therefore unprofessional conduct under the VPA. In making this conclusion, the Hearing Tribunal notes that the evidence does not indicate that this was a one-time or inadvertent occurrence; on the contrary, the evidence indicates that it happened regularly over the course of many months, and that (with the exception of those procedures involving Ms. Gautreau) it was the practice's standard approach to the disposal of biomedical waste.

For those reasons, the Hearing Tribunal finds Dr. Yang guilty of allegation 5.

Allegation 6

That you billed for procedures that were not performed by HKVC

Dr. Wongsrikeao testified that she heard about inappropriate billing from the staff, but had no personal knowledge. The Hearing Tribunal did not consider her evidence in relation to this issue. Ms. Gautreau also testified that she had no knowledge about billing for procedures not performed.

Ms. Mitchell testified that Dr. Yang would instruct the staff to add items to a client's bill from time to time. She stated that there was an instance with a dog that was presented for shoulder surgery. She stated that the dog was to get hydrotherapy twice a day and that towards the end of the stay Dr. Yang instructed her not to perform the second hydrotherapy session, but to bill the client for the two sessions. Although Ms. Mitchell testified about another instance where Dr. Yang insisted that a blood panel be run even when it was not necessary to do so, she did not know with certainty that the client was actually charged for that treatment; the Hearing Tribunal does not rely on that evidence in making its conclusions on this allegation.

Similarly, Ms. Decoste testified that she believed that Dr. Yang billed for more radiographs than had been done, but she was not able to provide a specific example; in relation to other billing issues, she stated that she was not in the surgery room so would not be able to verify whether or not things that were billed were in fact performed.

Ms. Simons testified that she was aware of an instance where a dog was to have a wound flushed every 4-6 hours, and that there was a charge for a flush that did not happen. She also recalled an instance where an animal was reported on a bill as having an IV, but that she did not observe any IV being used on the animal. She said that it was Dr. Yang's decision to place those matters on the bills for the clients. Under questioning of the Hearing Tribunal, she stated that she brought this to Dr. Yang's attention and that she was told that it was none of her concern and to stay out of it.

The evidence in relation to this allegation was not overwhelming like some of the others before the Hearing Tribunal. However, based on the evidence of Ms. Simons and Ms. Mitchell, which involved the recollection of specific examples of Dr. Yang billing clients for procedures not performed, the Hearing Tribunal finds that the allegation has been proven on a balance of probabilities: it is more likely than not that Dr. Yang billed more than one client for procedures not performed, and the evidence suggests that this was done knowingly, not as a result of inadvertence or by accident. Having established that Dr. Yang engaged in the conduct alleged, the Hearing Tribunal finds that this is conduct with harms the integrity of the profession (s 1(n.1)(xi)). Members of the public are in a particularly vulnerable situation with respect to knowing what procedures are necessary and what procedures were, in fact, performed. Members of the public have to rely on the information provided by veterinarians with respect to those issues, and a member who adds items to a bill does so in a manner which makes it largely impossible for the client to know and question the matter. Therefore, the Hearing Tribunal concludes that Dr. Yang engaged in unprofessional conduct in relation to billing for procedures not performed.

For those reasons, the Hearing Tribunal finds Dr. Yang guilty of allegation 6.

Allegation 7

That you engaged in sexual misconduct with a former employee, DD in that you:

- *Invited her to the home under the pretense of cleaning your home*

- *Provided her alcoholic beverages*
- *Asked her to stay overnight at the house*
- *Made comments about the clothing DD was wearing*
- *Within the clinic, locked the door in order to engage in a conversation with DD*

Dr. Keeler testified that during his investigation, he was told that he should make inquiries with Ms. Decoste regarding the reasons why she left her employment at Dr. Yang's clinic. He was provided with an email address for Ms. Decoste and sent her a message. He stated that Ms. Decoste provided him with her recollection of the relevant events, including what occurred during a visit by Ms. Decoste to Dr. Yang's home.

Ms. Decoste testified that she had moved to Alberta from Nova Scotia and did not have family in Edmonton. She lived in Alberta for 2-3 years during which time she worked for Dr. Yang. She worked at the clinic for about a year, and was 23 years old at the time. She had no experience with veterinary medicine at the time but loved animals. She said that she did administrative duties and assisted with animal procedures from time to time. She stated that she would bath the clinic dogs if they were dirty. She stated that at one point an animal's IV fell out, and that she was instructed by Dr. Yang over the phone to reinsert it herself. Ms. Decoste stated that Dr. Yang started to make her feel uncomfortable by being overly friendly and by making comments about her pants or shorts. She stated that this changed at the very end when he was very rude to her and short with her. She testified that the change occurred after Dr. Yang had asked her to go to his home to clean it prior to his daughters returning home. She says that Dr. Yang changed her schedule and she went with him to his home. She stated that while she attempted to clean, he began to offer her alcohol. She testified that she declined, but then took a bottle and left it on the table. She said that she attempted to continue cleaning, but that Dr. Yang stopped her and asked her to sit with him. He then asked her to come outside to see the horses on the ranch and that once they were outside he asked her if he could take pictures of her. That made her uncomfortable. She testified that he again tried to give her alcohol and then he made her dinner. She stated that it was very uncomfortable the whole time, but that he was her boss, she was away from family, and she needed the money. She stated that he then asked her to stay the night twice, but she declined twice and then left. She testified that a couple of shifts after that situation she was alone in the clinic lunch room and Dr. Yang came in. She stated that he told her that he had locked the clinic door so that no clients could come in and that he wanted to speak with her. He told her about a past relationship and how much he cared for her. She told him that she did not feel the same and he then left. After that, she testified that he was not professional and became verbally aggressive with her, including telling her that everything she did was wrong. She stated that after the discussion in the lunch room, he would tell her that clothing choices that he had approved of in the past were now inappropriate. She stated that she was so uncomfortable that she only stayed for one shift after the lunch room meeting and that she never came back. She stated that she felt uncomfortable, that she had been taken advantage of and that he knew that she needed the money and that she would say nothing. She stated that Dr. Yang made her

feel like a body there for him to look at and treat in a certain way. She stated that she was reluctant to participate because she had felt like she had done something wrong by going to his house and putting herself in that situation; she stated that it took her awhile to realize that his conduct was not appropriate.

Ms. Simons stated that she observed Dr. Yang treating Ms. Decoste inappropriately and calling her names towards the end of her time at the clinic. Neither Ms. Mitchell nor Ms. Gautreau worked with Ms. Decoste.

Dr. Wongsrikeao testified that she worked at the clinic when Ms. Decoste worked there, and that Ms. Decoste told her about what occurred at Dr. Yang's home, and that Ms. Decoste told her that after she told Dr. Yang that she was not interested in him he was cold with her and became angry with small mistakes. Although the Hearing Tribunal does not rely upon Dr. Wongsrikeao's evidence regarding what happened between Ms. Decoste and Dr. Yang, the Hearing Tribunal finds that it supports the credibility of Ms. Decoste's version of events given that she advised Dr. Wongsrikeao of those matters at the time these were clearly not allegations that were invented after the fact by Ms. Decoste.

The Hearing Tribunal accepts Ms. Decoste's evidence, and notes that it is corroborated in part by both Dr. Wongsrikeao's evidence and Ms. Simons' evidence. Dr. Yang was in a position of power over Ms. Decoste, largely because he was her boss, and particularly because Ms. Decoste was a young woman in a vulnerable situation. The Hearing Tribunal accepts that the actions of Dr. Yang were not professional in nature, and that his conduct towards Ms. Decoste had romantic or sexual overtones, including telling her that he cared about her in the circumstances in which he did it. His conduct during the visit of Ms. Decoste to his home was not appropriate, and the Hearing Tribunal accepts that Mr. Decoste was left to feel uncomfortable, vulnerable, coerced and mislead. Approaching Ms. Decoste in the work setting, including by locking the door to prevent interruptions, was unprofessional. Further, the evidence indicates that Dr. Yang's conduct to Ms. Decoste became hostile and aggressive following her rejection of his advances, which exacerbates the abuse of the power differential between Ms. Decoste and Dr. Yang. This conduct is inappropriate, and harms the integrity of the profession. It is unprofessional conduct pursuant to the VPA.

For those reasons, the Hearing Tribunal finds Dr. Yang guilty of allegation 7.

Allegation 8

That you failed to ensure that there was an x-ray dosimeter for each employee of HKVC

The evidence in relation to this allegation fell generally along the same lines as the evidence in relation to the disposal of biomedical waste. Dr. Wongsrikeao testified that when she began her work at Dr. Yang's clinic, there were only two dosimeters for the whole clinic to share, and that she told Dr. Yang that she needed to have her own. She said that she told him that, but that he told her that she didn't need her own.

Ms. Mitchell stated that she would use a dosimeter when assisting with radiographs, but that she did not have her own. Ms. Decoste stated that she wore the heavy, weighted device when assisting with radiographs, but that she did not have her own “badge”. Ms. Simons testified that she did not have her own dosimeter, but that there was one on the gown which would be used by whoever was assisting Dr. Yang with the radiograph. It did not have her name on it and was shared, with Dr. Yang using the other dosimeter in the clinic regularly.

Ms. Gautreau testified that when she started working she did not have her own dosimeter, but that she got one after asking for it multiple times. She stated that each of Dr. Yang and Dr. Wongsrikeao had one each, but that the others were communal and would be used by anyone helping with radiographs. She stated that when he raised it with Dr. Yang she was told that each individual didn’t need their own and that it was expensive. She researched the information about the fact that each person needs their own, why, and the cost.

The ABVMA Practice Inspection and Practice Standards Bylaws (November 2014) sets out requirements regarding the use of dosimeters in veterinary clinics. Standard SC-8, Diagnostic Imaging, section 5, states:

5. Radiation Protective Equipment is available and in use, including:

...

- Personal dosimeters specific to the VPE, for each team member working with or near radiation equipment:
 - Dosimeters are worn at a body location recommended by the dosimeter provider;
 - Dosimeters are sent in regularly for analysis

The standards set out in the Bylaw are clear: each team member working with or near radiation equipment must be provided with a “personal dosimeter”. This is important for safety reasons and is a standard practice in veterinary clinics. The evidence is abundantly clear that Dr. Yang failed to abide by these standards; Ms. Gautreau as a registered veterinary technician, knew enough to question Dr. Yang’s approach and to demand that she be provided with her own. Other employees would not have been able to ascertain that information with the same ease, and Dr. Yang’s failure to abide by the standard had the potential to put employees at risk. While the Hearing Tribunal considered the explanation given by Dr. Yang to the investigator as reflected in the interview notes, it does not accept this as a reasonable position to take given the very clear requirements in the Bylaws. The proven conduct harms the integrity of the profession and is therefore unprofessional conduct.

For those reasons, the Hearing Tribunal finds Dr. Yang guilty of allegation 8.

DECISION ON SANCTION

Following the oral decision on the allegations, the Hearing Tribunal heard submissions from legal counsel for the Complaints Director with respect to sanction. She indicated that the Complaints Director was seeking the following orders:

1. A reprimand;
2. Cancellation of Dr. Yang's registration and annual certificate;
3. A prohibition on re-applying for membership for a period of at least 5 years;
4. Fines in the total amount of \$33,000 (\$10,000 for allegation 1; \$5,000 for allegation 2; \$10,000 for allegations 3 and 4; \$500 for allegation 5; \$2,000 for allegation 6; \$5,000 for allegation 7; \$500 for allegation 8);
5. Costs of \$50,000; and
6. Publication on a "with-names" basis.

In support of her oral submissions, legal counsel provided the Hearing Tribunal with case law regarding the proper approach to sanctions, including specifically in support of the Complaints Director's request that the practice permit of Dr. Yang be cancelled. Legal counsel referred the Hearing Tribunal to the following cases, which in her submission reflected conduct that goes to the "core" of a professional's duties, similar in her view to Dr. Yang's conduct in relation to the practice of veterinary medicine:

- *Adams v Law Society of Alberta*, 2000 ABCA 240
- *College of Nurses of Ontario v Wardlaw*, 2018 CanLII 49366
- *Ontario (College of Physicians and Surgeons of Ontario) v Liberman*, 2012 ONCPSD 12
- *Ontario (College of Physicians and Surgeons of Ontario) v WU*, 2020 ONCPSD 1
- *Re Sychuk*, [1999] LSDD No 15 (QL)
- *Ontario (College of Physicians and Surgeons of Ontario) v Attallah*, 2020 ONCPSD 38

Legal counsel noted that while examples of revocation of membership in professional bodies usually arise from the commission of a serious infraction, or evidence of ungovernability, revocation is not reserved solely for the most egregious misconduct. Legal counsel also provided the following examples of situations where members of the ABVMA had been subject to discipline in the past:

- *Re Schmaltz* (2016); and
- *Re Guiccione* (2014).

In addition, the Hearing Tribunal accepted as Exhibit 18 a previous disciplinary decision of the Hearing Tribunal relating to Dr. Yang: *Re Yang* (2017) which resulted in sanctions against him.

Finally, legal counsel for the Complaints Director provided the Hearing Tribunal with *Jaswal v Newfoundland (Medical Board)* (1996), 138 Nfld & PEIR 181, which sets out factors to be considered by

the Hearing Tribunal in determining an appropriate sanction arising from the findings of unprofessional conduct.

Counsel for the Complaints Director stated that in considering an appropriate sanction, the Hearing Tribunal should consider: 1) the protection of the public; 2) deterrence (specific and general); 3) rehabilitation; 4) fairness having regard to the sanctions in similar cases; and 5) the maintenance of the integrity of the profession. She indicated that the nature of the criminal and regulatory convictions is the heart of the matter here, and the most serious of the proven allegations given the centrality of the treatment of animals to veterinary practice. She stated that denunciation was particularly important here, and that rehabilitative interests were limited.

In considering an appropriate sanction, the Hearing Tribunal has considered the need to ensure the protection of the public through effective self-governance. The very serious nature of Dr. Yang's conduct resulting in criminal and regulatory convictions is a major factor in the Hearing Tribunal's decision, including the fact that Dr. Yang's conduct represents a serious violation of the core of veterinary medicine: the ethical and humane treatment of animals. Dr. Yang not only caused unnecessary suffering to animals in his care, he also mistreated his colleagues and put them and the public at risk by failing to abide by mandatory Bylaws. The Hearing Tribunal finds that a very serious sanction is required in order to adequately ensure that members of the profession are aware that engaging in serious criminal and regulatory conduct, particular where such conduct has such a direct and profound connection with the core of veterinary practice, will result in serious professional sanctions.

The Hearing Tribunal has considered the *Jaswal* factors in coming to its determination. Specifically:

- 1) *The nature and gravity of the proven allegations.* As indicated above, the misconduct at issue here is at the very serious end of the scale and goes to the core of the practice of veterinary medicine. Dr. Yang's conduct was egregious, and related not only to the animals which were dealt with in Court, but also other animals in his care. Further, the misconduct relating to Dr. Yang's treatment of his co-workers, his abuse of his position of power, and this refusal to abide by established standards of practice require serious denunciation. This is a serious aggravating factor.
- 2) *The age and experience of the offending member.* Dr. Yang is not a new member of the profession. He should have known better than to engage in the proven misconduct. This is an aggravating factor.
- 3) *The previous character of the member.* Although Dr. Yang had a previous finding of unprofessional conduct, it relates to conduct that occurred after the conduct alleged here, and therefore the Hearing Tribunal has refrained from considering that finding of unprofessional conduct as an aggravating factor here.
- 4) *The age and mental condition of the victim.* Although this does not directly apply to this situation, the Hearing Tribunal acknowledges that the animal-related offences were in relation

to Dr. Yang's own animals, over which he was in a position of power. The animals were defenseless and could do nothing to protect themselves or protest their treatment. Further, in relation to his behavior to his co-workers, the Hearing Tribunal notes that he was in a position of power as the owner of the clinic, particularly in relation to Ms. Decoste, who was 23 years old at the time of the misconduct. This is an aggravating factor.

- 5) *The number of times the misconduct occurred.* The proven conduct against both the animals and Dr. Yang's co-workers were not one time events; they represent a pattern of behavior that was repeated over a significant period of time. This is also an aggravating factor.
- 6) *The role of the member in acknowledging what occurred.* Dr. Yang refused to attend at the hearing despite the clear evidence that he was properly served with notice. There is no indication that Dr. Yang has acknowledged what occurred, nor taken responsibility for any of his conduct. This is an aggravating factor.
- 7) *Other consequences.* It is clear to the Hearing Tribunal that the Member has suffered serious consequences as a result of his actions. He has been convicted of criminal and regulatory offences. He has been suspended for more than three years as a result of his conduct. The ongoing consequences resulting from his criminal conviction is also serious. This is a mitigating factor.
- 8) *The impact of the misconduct on the victim.* As indicated above, the impact of his conduct on the animals in his care was serious and prolonged. The impact on his co-workers, particularly on Ms. Decoste was also serious. This is an aggravating factor.
- 9) *Mitigating or aggravating circumstances.* The Hearing Tribunal believes that mitigating and aggravating factors have been considered under the other *Jaswal* factors.
- 10) *Deterrence.* This factor weighs heavily in favour of a serious sanction. It is vital that the profession communicate to Dr. Yang that his conduct will result in professional consequences. Dr. Yang's misconduct, particularly in relation to his treatment of animals in his care, must be condemned by the profession in the strongest possible terms. Further, it is necessary that other members of the profession understand that similar behavior will have very serious professional consequences.
- 11) *Public confidence in the integrity of the profession.* Again, this factor militated towards a serious sanction. The public must have confidence that serious misconduct which calls into question the integrity of the profession will be treated seriously by the ABVMA, and that unprofessional conduct of this type will result in serious sanctions. The proven allegations against Dr. Yang go to the core of a veterinarian's professional duties. The need to maintain public confidence in the self-governance of veterinarians by veterinarians requires a serious sanction.
- 12) *Degree to which the conduct fell outside of the range of acceptable behavior.* For the reasons noted above, this conduct was unquestionably serious and fell far outside of the range of

permitted conduct. Any person learning about the convictions in allegation 1, and the treatment of other animals in his care, would conclude that this conduct was far outside of the range of acceptable behavior by a veterinarian. This is an aggravating factor.

- 13) *Range of sentences in similar cases.* The Hearing Tribunal has considered the cases provided by the parties. The Hearing Tribunal notes that the cases support a serious consequence given the fact that many of them reflected violations of core principles of other professions.

For all of those reasons, the Hearing Tribunal has had no hesitation in concluding that the proven misconduct requires warrants the cancellation of Dr. Yang's registration and annual certificate. It also concludes that Dr. Yang should be prevented from re-applying for membership for a period of five years. This will ensure that Dr. Yang will be subject to the requirement to prove his good character as a condition of his application, should he decide to apply. A reprimand is also appropriate to represent a specific denunciation of Dr. Yang's conduct.

In relation to the payment of fines, the Hearing Tribunal considers that the total sum of \$34,000 in fines is proportionate given the serious sanction of cancellation. It comes to that conclusion based on the following: \$10,000 for allegation one, reflecting the very serious nature of the breach and its relationship to the core of the practice of veterinary medicine; \$10,000 for allegations 3 and 4, for the same reasons; \$5,000 each for allegations 2 and 7, reflecting the long history of mistreatment of staff members by Dr. Yang; \$500 each for allegations 5 and 8, reflecting breaches of the Bylaws and the safety issues that could arise from them; and \$3,000 for allegation 6. The Hearing Tribunal notes that the fine in relation to allegation 6 is \$1,000 more than was sought by the Complaints Director. The Hearing Tribunal believes that the nature of the misconduct in allegation 6 undermines the integrity of the veterinary profession, and requires a more severe penalty to protect the public and serve as a deterrent to other members of the ABVMA from similar misconduct. The Hearing Tribunal finds that a fine in the amount of \$3,000 is appropriate in order to accomplish that objective.

The Hearing Tribunal has concluded that the interests of justice required that the Member bear the majority of the costs relating to the investigation and hearing. However, counsel for the Complaints Director candidly acknowledged that some of the costs relating to adjournments were beyond the control of the parties. The Hearing Tribunal therefore orders that Dr. Yang be responsible for two-thirds of the actual cost of the investigation and hearing, up to a maximum of \$50,000.00.

The fines and costs shall be payable by Dr. Yang within 6 months of the date of this decision, or such other time as agreed to by the Complaints Director. The Hearing Tribunal directs that a summary of this matter be published with the Member's name. This is necessary for the protection of the public, and to accomplish the objectives of general and specific deterrence.

The Complaints Director may seek guidance from a Hearing Tribunal with respect to the implementation of any of these orders.

Finally, the Hearing Tribunal refers the issue of the non-attendance of Dr. Yang to the Complaints Director pursuant to section 40(4)(a) of the VPA.

THE HEARING TRIBUNAL

Dr. Lloyd Keddie, Chair

Authorized to sign for: **Dr. Calvin Booker**

Authorized to sign for: **Dr. Robert Coppock**

Authorized to sign for: **Mr. Brian Marcotte**

Appendix “A”: Exhibit List

1. Amended Notice of Hearing
2. Amended Notice to Attend
3. Letter to Dr. Yang re Interim Suspension, dated July 5, 2016
4. Letter to Dr. Dalton re Interim Suspension, dated September 2, 2016
5. Indictment
6. Variation Order of Release, October 13, 2016
7. Letter to Karen Smith re ABVMA, dated November 14 ,2016
8. Letter to Dr. Yang, dated November 29, 2016
9. Email from Heather Frydenlund, dated March 16, 2018
10. *R v Yang*, 2019 ABQB 716
11. Statutory Declaration, dated March 18, 2019
12. Email from Scott MacMillan to Karen Smith, dated October 14, 2020
13. Chronology of File, dated January 7, 2020, updated October 8, 2020
14. Investigation Report, dated October 11, 2018
15. Document entitled “Julie Mitchell’s complaint against Dr. Yang, undated
16. Series of emails between Dr. Yang and various senders/recipients, October 14-21, 2020
17. Letters to Nate Whitling dated March 27, 2019 and April 22, 2019
18. Decision of the Hearing Tribunal of the ABVMA, dated March 28, 2018