

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. BIKRAMJIT SAHI, A MEMBER OF THE ALBERTA VETERINARY MEDICAL ASSOCIATION;

AND IN THE MATTER OF A PROFESSIONAL CONDUCT HEARING REGARDING THE CONDUCT OF DR. BIKRAMJIT SAHI UNDERTAKEN VIRTUALLY (COVID 19);

AND IN THE MATTER OF A REFERRAL BY THE ALBERTA VETERINARY MEDICAL ASSOCIATION COMPLAINTS DIRECTOR IN ACCORDANCE WITH S. 41.1(3)(b) OF THE VETERINARY PROFESSION ACT;

AND IN THE MATTER OF THE DECISION OF THE HEARING TRIBUNAL OF THE ALBERTA VETERINARY MEDICAL ASSOCIATION AS SET OUT IN THE DECISION AND REASONS OF THE HEARING TRIBUNAL DATED JANUARY 13, 2021 RELATING TO PROCEEDINGS HELD IN EDMONTON, ALBERTA, ON JUNE 23-24, AUGUST 20, AND OCTOBER 14-15, 2020, UNDERTAKEN VIRTUALLY (COVID 19);

AND IN THE MATTER OF THE DECISION ON SANCTIONS OF THE HEARING TRIBUNAL OF THE ALBERTA VETERINARY MEDICAL ASSOCIATION AS SET OUT IN THE DECISION AND REASONS OF THE HEARING TRIBUNAL DATED APRIL 12, 2021 RELATING TO PROCEEDINGS HELD IN EDMONTON, ALBERTA ON FEBRUARY 22, 2021, UNDERTAKEN VIRTUALLY (COVID 19);

AND IN THE MATTER OF AN APPEAL FROM THE HEARING TRIBUNAL TO THE COMMITTEE OF COUNCIL;

**WRITTEN DECISION OF THE COMMITTEE OF COUNCIL (“COC”)
OF THE ALBERTA VETERINARY MEDICAL ASSOCIATION (“ABVMA”)**

Parlee McLaws LLP
1700, 10175 – 101 Street NW
Edmonton, AB T5J 0H3
Tel: (780) 423-8500
Fax: (780) 423-2870

Attention: Ms. Karen A. Smith, Q.C.
Counsel for the Respondent, the
Complaints Director of the ABVMA

Jensen Shawa Solomon Duguid Hawkes LLP
800, 304 8 Avenue SW
Calgary, AB T2P 1C2
Tel: (403) 571-1520
Fax: (403) 571-1528

Attention: Oliver Ho
Counsel for the Appellant, Dr. Bikramjit Sahi

DATE OF APPEAL HEARING: October 4, 2021

LOCATION: Virtual appeal hearing

APPEALED DECISION: Hearing Tribunal findings written decision dated January 13, 2021 and Hearing Tribunal penalty decision dated April 12, 2021

PARTICIPANTS:

COC Members: Dr. Daren Mandrusiak (Chair)
Dr. Jonathan Leicht
Dr. Serge Chaloub
Mr. Ross Plecash (public member)

Legal Counsel for the COC: Blair E. Maxston, Q.C.

Legal Counsel for ABVMA: Karen A. Smith, Q.C.

ABVMA Personnel: Dr. Phil Buote, Complaints Director and Deputy Registrar

The Appellant Dr. Bikramjit Sahi
Mr. Oliver Ho

Legal Counsel for the Appellant:

EXHIBITS (By Consent):

1. Record of Hearing (the "Record")
2. Letter of Appeal from Dr. Sahi dated February 12, 2021 and Written Submissions from Dr. Sahi and Complaints Director of the ABVMA;

I. INTRODUCTION

1. Pursuant to section 44 of the Veterinary Profession Act, R.S.A. 2000, c. V2 (the "**VPA**") the Appellant, Dr. Bikramjit Sahi , ("**Dr. Sahi**") appealed the January 13, 2021 findings written decision (the "**Findings Decision**") and also the April 12, 2021 penalty written decision (the "**Penalty Decision**") subsequently issued by a hearing tribunal (the "**Hearing Tribunal**") of the ABVMA (collectively the "**Decision**") arising from hearings on June 23 and 24, August 20 and October 14 and 15, 2020 and February 22, 2021 before the Hearing Tribunal (collectively the "**Hearing**").

II. THE STATUTORY FRAMEWORK

2. The ABVMA is governed by the *VPA*.
3. Pursuant to section 44 of the *VPA* a person who is unsatisfied with a decision made by an ABVMA Hearing Tribunal can request an appeal of that decision to the ABVMA Council.
4. The ABVMA Council has delegated its duties and powers under section 44 and 45 of the *VPA* to the COC.

III. BACKGROUND FACTS

A. Generally

5. Dr. Sahi is a registered veterinarian of the ABVMA and has been licensed to practice veterinary medicine in Alberta since 2010. At all material times, he was the sole practitioner at Fauna Animal Hospital located in Chestermere, Alberta.
6. The Hearing related to two Notices of Hearing:
 - a. arising from a previous hearing tribunal decision that found him guilty of unprofessional conduct and order dated December 2, 2015 (the "**PIPS Matter**"); and
 - b. arising from a controlled substance, hydromorphone matter (the "**Hydromorphone Matter**").
7. For the PIPS Matter, Dr. Sahi was subject to a December 2, 2015 order of a hearing tribunal which required, among other things, that he successfully complete two (2) practice inspections and that he complete continuing education requirements.

8. The practice inspections were undertaken by Dr. Lynn Gratz on February 20, 2018 and by Dr. Lynn Gratz accompanied by Dr. Phil Buote on August 15, 2018. Dr. Sahi failed to meet the minimum practice standards concerning the inspections.
9. Dr. Sahi did not complete five (5) of the ten (10) required hours of continuing education in radiology and the annual requirement of twenty (20) hours of continuing education for a registered veterinarian.
10. For the Hydromorphone Matter, Dr. Sahi purchased over 70,000 mg of hydromorphone from Western Drug Distribution Centre from 2014 through to 2019 and only 1,336.3 mg was used according to Dr. Sahi's controlled drug logs.
11. The investigation into Dr. Sahi's conduct related to hydromorphone was undertaken by Dr. Peter Martin. Dr. Martin first attended at Fauna Animal Hospital on October 10, 2018.
12. Dr. Martin attempted to contact Dr. Sahi in respect of the investigation in late November and early December 2018.
13. At the Hearing, the following witnesses were called:
 - a. By the Complaints Director:
 - Dr. Phil Buote
 - Dr. Lynn Gratz (inspector)
 - Lynn Bussey (Director of Client Services of Western Drug Distribution Centre)
 - Greg Hall (President and CEO of Western Drug Distribution Centre)
 - Dr. Peter Martin (investigator)
 - Dr. Omar Rahaman (expert)
 - b. By Dr. Sahi:
 - Dr. Bikramjit Sahi
 - Kenneth Davies (questioned document examiner)
 - Dr. Ronald Lim (expert)
14. In the Findings Decision the Hearing Tribunal concluded that Dr. Sahi was guilty of eight (8) allegations of unprofessional conduct, which were as follows:
 - a. **Contravening an Order of the Hearing Tribunal:**

1. That Dr. Sahi failed to successfully satisfy the Practice Inspection Practice Standards inspections on February 20, 2018 and August 15, 2018.
2. That in failing to meet the minimum standards for practice inspections, Dr. Sahi failed to maintain the appropriate minimum PIPS standards.
3. That Dr. Sahi failed to complete the continuing education ordered by the Hearing Tribunal on December 2, 2015 in accordance with the terms of the Order.
4. That in the inspection of February 20, 2018, Dr. Sahi was inappropriate in his interactions with the inspector and misleading with respect to the information he provided to the inspector.

b. **Controlled Drugs:**

1. That Dr. Sahi purchased amounts of Hydromorphone from Western Drug and Distribution Centre ("WDDC") in a manner that was disproportionate to the use at Fauna Animal Hospital for the period of 2014 through to 2019 inclusive.
 2. That Dr. Sahi inappropriately prescribed and/or dispensed Hydromorphone during the period of 2014 through to 2019, specifically in a manner that is not compliant with the ABVMA Council Guidelines regarding Prescribing, Dispensing, Compounding and Selling Pharmaceuticals.
 3. That Dr. Sahi distributed and/or sold controlled drugs, namely Hydromorphone in amounts and/or in a manner that was not in accordance with the provisions of the *Controlled Drugs and Substances Act*, SC 1996, c 19, as amended and/or provisions of the *Narcotic Control Regulations*
 4. That Dr. Sahi failed to respond to the investigator's emails and telephone calls to Dr. Sahi with respect to the investigation.
15. As a result of their findings of unprofessional conduct, the Hearing Tribunal imposed the following sanctions on Dr. Sahi in the Penalty Decision:
- a. Two written reprimands shall be issued against Dr. Sahi: one for the PIPS Matter and one for the Hydromorphone Matter.

- b. Dr. Sahi's registration with the ABVMA shall be cancelled and Dr. Sahi is prohibited from applying for registration for a period of five (5) years.
- c. Dr. Sahi shall pay a fine of \$35,500.00 within two year, representing: (i) \$10,000.00 for each findings of unprofessional conduct regarding the Hydromorphone Matter (allegations 1-3); (ii) \$1,000.00 with respect to each of the breaches of the orders of the previous hearing tribunal (allegations 1-3), and with respect to the PIPS inspections and the failure to meet the minimum PIPS bylaws; and (iii) \$2,500.00 with respect to the failure to cooperate with the PIPS inspector.
- d. Dr. Sahi shall pay 75 percent of the actual cost of the investigation and hearing up to a maximum of \$105,000.00 within two years.
- e. There shall be publication on a "with names" basis.

B. The Appeal

16. In a letter dated February 12, 2021, (sent via email to Lisa Barry) the ABVMA received Dr. Sahi's written letter of appeal.
17. Dr. Sahi is appealing Allegations 3 and 4 relating to contravention of an order by a hearing tribunal, Allegations 1, 2, 3 and 5 related to controlled drugs, and is also appealing the penalty orders imposed against him.
18. The grounds for Dr. Sahi's appeal are set out in greater detail in his written submissions and can be summarized as follows:
 - (a) The Hearing Tribunal erred when, in its Findings Decision, it adopted a more expansive and incorrect definition or interpretation of "distributed" and "dispensing" which in turn deprived Dr. Sahi of the opportunity to properly respond to the relevant allegations.
 - (b) The Hearing Tribunal incorrectly made inferences of fact that were logically inconsistent with and unsupported by the evidence and failed to accept Dr. Sahi's uncontradicted evidence.
 - (c) In terms of the Penalty Decison, the Hearing Tribunal failed to properly apply the *Jaswal* factors, failed to apply less restrictive or punitive sanctions and issued penalties which were impossible for Dr. Sahi to comply with.

19. The remedy sought by Dr. Sahi is to have the six (6) appealed findings of unprofessional conduct overturned and the penalty orders in the Penalty Decision vacated.

IV. THE VETERINARY PROFESSION ACT AND THIS APPEAL

20. Pursuant to s. 45(2) of the *VPA*, an appeal to the COC must be based on the record of the hearing and the decision of the Hearing Tribunal.

21. The COC's powers on appeal are set out in s.45(5) of the *VPA*:

- (A) 45(5) The Council must, within 90 days from the date of the conclusion of the appeal hearing before it, make a decision and may, by order, so any or all of the following:
 - (a) make any finding that in its opinion should have been made by the Hearing Tribunal,
 - (b) quash, vary or confirm any finding or order of the Hearing Tribunal or substitute or make a finding or order of its own,
 - (c) refer the matter back to the Hearing Tribunal to receive additional evidence for further consideration in accordance with any direction that the Council may make, or
 - (d) refer the matter to the Hearings Director to schedule it for rehearing before another Hearing Tribunal composed of persons who were not member of the Hearing Tribunal that heard the matter.

V. THE APPEAL HEARING: BACKGROUND MATTERS

22. The members of the COC at the October 4, 2021 virtual appeal were Dr. Daren Mandrusiak (chair), Dr. Jonathan Leicht, Dr. Serge Chaloub and Mr. Ross Plecash (public member). The COC was represented by independent legal counsel, Mr. Blair Maxston, Q.C.
23. Dr. Sahi was present at the appeal and was represented by Mr. Oliver Ho.
24. Also present were Ms. Karen Smith, Q.C. (legal counsel for the ABVMA) and Dr. Phil Buote (ABVMA Complaints Director and Deputy Registrar).
25. All COC members were unaware of any bias or conflict of interest based on the circumstances that exist or existed in the past, which, if known, could constitute a reasonable apprehension of bias or a conflict of interest with respect to the outcome of this appeal, or any of the individuals involved in the hearing.

26. There were no objections from either party in regards to the composition of the COC hearing the appeal or the COC's jurisdiction to proceed with the appeal.
27. Neither party presented any jurisdictional issues or any procedural matters.
28. The Record and all other documents were entered with the consent of both parties.

VI. SUMMARY OF ISSUES AT THE APPEAL

29. Bearing in mind Dr. Sahi's grounds of appeal, the following issues were before the COC at the October 4, 2021 appeal:
 - a) What is the standard of review on appeal from a decision of a Hearing Tribunal? and
 - b) Do the findings of unprofessional conduct and the penalties ordered in relation to the allegations meet the applicable standard of review?

VII. SUBMISSIONS OF THE PARTIES

A. Dr. Sahi (Mr. Ho)

i. Preliminary Matters and Standard of Review

30. In his client's written submissions and in his oral submissions, Mr. Ho argued that the outcome in the Decision was incorrect and the penalties imposed were also inappropriate. Mr. Ho also stated that Dr. Sahi regretted the aggressive approach taken by his prior lawyer during the Hearing.
31. Mr. Ho reviewed the standard of review issue and argued that the correctness standard of review applies but that even if the reasonableness standard applies the decisions of the Hearing Tribunal should be overturned.

ii. General Submissions

32. Mr. Ho reviewed the Findings Decision and Penalty Decision. In terms of the interactions with the inspector, Mr. Ho argued that the evidence was unclear and that there were vocabulary issues and cultural differences that resulted in the possibility of misinterpretation.
33. Dr. Sahi admits that he consumed hydromorphone and that he had an addiction problem but submits that is substantively different than dispensing drugs. Further, in the Findings

Decision the Hearing Tribunal used "dispensing" in a manner that was not ordinary and Dr. Sahi did not therefore know how to defend himself at the Hearing. Specifically, selling or distribution is different from consuming drugs.

34. The penalty orders were inconsistent with Dr. Sahi's acts and were inappropriate.
35. Since Dr. Sahi cannot work as a veterinarian it is impossible for him to pay fines. Mr. Ho argued that Dr. Sahi should be allowed to return to work and argued that there have been nearly 2 years of suspension that have already occurred.

B. Complaints Director (Ms. Smith)

i. Preliminary Matters and Standard of Review

36. Ms. Smith reviewed the findings of unprofessional conduct that were being appealed and urged the COC to carefully examine all of the evidence, Dr. Sahi's history with the ABVMA, his drug addiction, the witnesses that testified at the Hearing, Dr. Sahi's testimony and the findings of the Hearing Tribunal. Ms. Smith also urged the COC to consider all of the exhibits which were before the Hearing Tribunal.
37. Ms. Smith reviewed the case law concerning standard of review and argued that reasonableness was the applicable standard of review in this matter. She submitted that significant deference should be given to the conclusions made by the Hearing Tribunal particularly since they saw and heard the witnesses.
38. Ms. Smith argued that the COC's role was not to re-weigh evidence. Instead, it is to decide whether the Decision was reasonable.
39. Ms. Smith argued that if the *Vavilov* case does apply to this appeal, her client maintains that the standard of review is still reasonableness since none of the exceptions in *Vavilov* apply to the appeal.

ii. General Submissions

40. Ms. Smith reviewed the evidence before the Hearing Tribunal and argued that there was no corroborating evidence to support Dr. Sahi's version of events. Ms. Smith submitted that Dr. Sahi's testimony at the Hearing was evasive and inconsistent and that he was not credible in his explanation.

41. Ms. Smith reviewed Dr. Sahi's non-compliance with the 2015 hearing tribunal orders and Dr. Sahi's prior discipline history and argued that he was essentially an ungovernable professional.
42. In terms of the issues raised about the meaning of "dispense" and related matters, Dr. Sahi should know the meaning of "dispense" and his obligations as a regulated member of the ABVMA concerning controlled drugs.
43. Ms. Smith argued that the Hearing Tribunal was reasonable in not believing Dr. Sahi concerning his consumption of Hydromorphone and that his explanations in that regard were not viable. Dr. Sahi must manage drugs pursuant to Council requirements (including record of use) and that was not done.
44. Ms. Smith argued that Dr. Sahi was able to obtain drugs because of the privilege of being a professional and having a license to obtain those drugs.
45. Ms. Smith argued that the charges involving drugs were not about trafficking or selling. Instead, they were about Dr. Sahi's professional obligations and his breach of those obligations.
46. Ms. Smith argued that Dr. Sahi has not shown any remorse or responsibility for his actions and that the Hearing Tribunal properly applied the *Jaswal* factors.
47. Ms. Smith argued that there were \$35,000.00 in fines which were less than the maximum allowed amount of \$50,000.00. As well, there were 8 of 9 findings of unprofessional conduct but the Hearing Tribunal only apportioned 75% of costs to be payable by Dr. Sahi.

VIII. STANDARD OF REVIEW

A. Analysis

48. The COC accepted the comments and case law set out in paragraphs 17 to 25 of the Complaints Director's written submissions.
49. The COC concluded that there is a presumption in favour of the more deferential reasonableness standard of review, although this presumption may be rebutted. The COC agreed with the Complaints Director that none of the exceptions apply and that the applicable standard of review is reasonableness. That is consistent with the *Moll* case. In the COC's view, none of the exceptions in the *Vavilov* case applied to this appeal.

50. The COC rejected any arguments that the correctness standard of review applied and concluded that this appeal related to evaluating the Decision and the Hearing Tribunal's analysis of the facts and whether Dr. Sahi's actions constituted unprofessional conduct. The COC was satisfied that the Hearing Tribunal properly applied the legal principles applicable to it. This included its unique firsthand ability to assess the credibility of the witnesses before it and (i) to accept or reject their testimony and (ii) to place the appropriate amount of weight the Hearing Tribunal saw fit.
51. In summary, the COC applied the reasonableness standard for this appeal. In applying the reasonableness standard of review the COC also agreed with the Complaints Director that both decisions and penalties of the Hearing Tribunal ought not to be lightly interfered with.

B. What is Reasonableness?

52. The COC adopted the test for reasonableness set out in *Dunsmuir* where the Court noted that a decision is reasonable if it is justifiable, transparent and intelligible, and falls within a range of possible, acceptable outcomes, which are defensible in respect of the facts and the law. The COC also adopted the applicable principles in the *Vavilov* case and considered whether the Decision bears the hallmarks of reasonableness – justification, transparency and intelligibility. The burden is on the party challenging the decision to establish that it is unreasonable.
53. The COC concluded that assessing the Decision on the reasonableness standard also involved determining whether the Decision was defensible bearing in mind that more than one right answer may be possible in any given situation.
54. The COC also accepted the principles in the *Hills* case and concluded that the Decision does not have to meet a "standard of perfection".

IX. FINDINGS AND REASONS: THE FINDINGS DECISION

55. From an overall perspective, the COC accepted the submissions and arguments of the Complaints Director.
56. The COC noted that the Findings Decision is 18 pages long and is comprehensive and detailed.
57. As described later in this appeal decision, the COC concluded that the reasons in the Findings Decision were clear and understandable and were supported by the evidence

before the Hearing Tribunal. The COC also concluded that the reasons fell within a range of possible outcomes and met the standard of reasonableness as they were justifiable, transparent and intelligible. The COC concluded that the Findings Decision met the reasonableness standard.

58. The Findings Decision and the Record disclose clear and consistent testimony and evidence which support the allegations and on which the Hearing Tribunal could reasonably make findings of unprofessional conduct. The COC defers to the Hearing Tribunal in terms of its decision to prefer the evidence of the Complaints Director's witnesses to that of Dr. Sahi and his witness since the Hearing Tribunal was in the best position to assess credibility.

A. The "Dispensing" and "Distribution" Definition Arguments and Related Matters

59. The COC rejected the argument that in the Findings Decision the Hearing Tribunal used "dispensing" in a manner that was not ordinary and that Dr. Sahi did not therefore know how to properly defend himself at the Hearing. The COC also rejected the argument that the act of personal consumption should not be characterized as prescribing or dispensing hydromorphone.
60. The COC accepted the Complaints Director's argument that Controlled Drugs Allegation 2 specifically refers to the ABVMA Council Guidelines Regarding Prescribing, Dispensing, Compounding, and Selling Pharmaceuticals (the "ABVMA Council Guidelines") and that those provide the applicable definition of and guidelines on "dispensing". Dr. Sahi must be aware of and comply with the ABVMA Council Guidelines.
61. The COC agreed with Ms. Smith that as a member of the veterinarian profession Dr. Sahi should know the meaning of "dispense" and his obligations as a regulated member of the ABVMA concerning controlled drugs.
62. The COC also agreed that the proven unprofessional conduct involving Controlled Drugs was not about trafficking or selling. Rather, the unprofessional conduct arose from Dr. Sahi's professional and ethical obligations as a member of this profession and his breach of those obligations.
63. The COC found that Dr. Sahi could know the nature and extent of the conduct giving rise to the Controlled Drugs allegations and could know what his obligations as a professional were in that regard --- including that dispensing could include dispensing to one's self. As a result, Dr. Sahi knew the case he had to rebut at the Hearing.

64. The COC also accepted the position that it was within the Hearing Tribunal's discretion to consider the meaning of "distribution" and not be limited to its strict definition of giving to a distinct third party.
65. The larger and paramount professional obligations of a veterinarian require that actions such as Dr. Sahi's be disciplined to preserve public protection and the integrity of this profession.
66. Regardless of the standard of review that applies or does not apply to this appeal, the COC found that there was no denial of procedural fairness.

A. The Incorrect Inferences of Fact and Logical Inconsistencies Argument

67. The COC finds that the Hearing Tribunal's analysis of the evidence before it met the reasonableness standard and that their findings were one of a range of supportable outcomes. The COC concluded that the evidence before the Hearing Tribunal was overwhelming in terms of supporting findings of unprofessional conduct and concluded that the testimony from the witnesses ---and the Hearing Tribunal's first hand assessment of that testimony---was crucial.
68. The COC noted the following in terms of witness testimony that supported the Findings Decision.

Dr. Lynn Gratz' Testimony

69. The COC found that the following testimony of Dr. Gratz was compelling in terms of supporting the Hearing Tribunal's Findings Decision as reasonable:
 - Dr. Gratz recounted her experience in practice, as a teacher at Olds college, as a locum in 106 practices throughout Canada and that she has performed 75-80 Practice Inspections over approximately 4 years.
 - Dr. Gratz testified that the February 2018 inspection was a difficult inspection almost immediately. Dr. Sahi started taking multiple bottles off the shelf and putting them into his lab coat. He provided very distracting behavior and it was difficult for him to answer questions. Dr. Sahi circled around answers and he interrupted on multiple occasions.
 - Dr. Gratz was so unhappy on how that inspection went that she immediately called Desiree Sieben and asked for help for first time after an inspection because she felt manipulated.

- Dr. Gratz doubted that she included everything observed at the clinic due to the difficulties she encountered and felt this was the worst practice she'd ever been to (files a mess, difficult to find information and trace information, hard to follow drug log, dated drugs, no paper appointment book, both computer and paper records disorganized).
- Dr. Sahi was polite but she felt very manipulated by the end of the inspection. It was Dr. Gratz' opinion that Dr. Sahi was being dishonest with her, manipulative and insulting.
- The second inspection in August of 2018 was performed with Dr. Buote also present on premise. That inspection was more pleasant as Dr. Sahi behaved differently but he was still evasive and not very helpful but less distracting.
- There was very little improvement found in the inspections completed between February and August 2018 dates.
- Cross examination by Mr. Girard revealed Dr. Gratz felt Dr. Sahi was actively interfering in the first inspection (taking drugs off the shelf, repeatedly changing subjects when asked for deeper explanations).
- Dr. Gratz felt that Dr. Sahi understood conversations and that there wasn't a language or culture barrier. He appeared nervous but polite and there were no other indications of other issues.

Dr. Rahaman's Testimony

70. Dr. Rahaman was extremely qualified with respect to addiction medicine, toxicology and assessment of professionals. The COC found that the testimony of Dr. Rahaman was compelling in terms of supporting the Hearing Tribunal's Findings Decision including the following:

- Dr. Rahaman found that the amounts that Dr. Sahi was using to be reasonable for patients with chronic pain or addiction but found the fact that he used it all at night and then experienced no addictions or withdrawal during the day highly unlikely.
- Hydromorphone orally in people lasts approximately 4-5 hours. Regardless of psychological addiction, the physiological withdrawal is quite severe.

- Dr. Rahaman found the wide range of dosage (250-350 mg per night) reported by Dr. Sahi very suspicious given it is quite extensive and would put him at a high risk of OD. In contrast, dropping from 350 mg to 250 mg would result in massive withdrawals.
- Professionals in these situations abusing drugs are usually very calculated and precise.
- Withdrawals worsen with time and are particularly bad with Hydromorphone as compared to other opioids. In the way Dr. Sahi was claiming he used Hydromorphone he would have had severe withdrawals.
- Dr. Rahaman fairly directly stated that he felt there were a lot of red flags in Dr. Sahi's version of events for a person who may have an addiction. He found the situation to be very suspect.
- Dr. Rahaman believed the math (300 mg per day only at night, never at work) seemed to have been fabricated to fit the explanation. As well, the math does not match the "patient" or the situation. Dr. Rahaman felt that Dr. Sahi would not have been able to practice given the withdrawal symptoms during the time period in question. In Dr. Rahaman's mind, if Dr. Sahi was using 300 mg per day at night he would have had severe withdrawals.

71. Accordingly, there was a reasonable evidentiary basis for the Hearing Tribunal to find that there were doubts about whether Dr. Sahi was telling the truth with respect to his addiction and the specifics of his drug usage.

Dr. Martin's Testimony

72. Dr. Martin was qualified to carry out the inspection based on his number of years in the veterinary profession and then as an investigator for the ABVMA. The COC found that the testimony of Dr. Martin was compelling in terms of supporting the Hearing Tribunal's Findings Decision including the following:

- When Dr. Martin re-entered the clinic at the October 10, 2018 visit, Dr. Sahi asked him to "save his family" indicating concern for something that was done wrong.
- Due to concern for the amount of drugs being ordered and not being logged in the drug book, Dr. Martin asked Dr. Sahi if he was using it personally and he said no apparently with no hesitation whatsoever.

- In a subsequent phone call, Dr. Sahi told Dr. Martin that he had sold some of the Hydromorphone but that he would not do it again to save his family. The goal of the phone call by Dr. Martin was to secure the permission of Dr. Sahi to obtain the WDDC purchase records, which he failed to give. Following this, Dr. Martin only received sporadic communication from Dr. Sahi including one written communication. Following the one letter, no further direct contact was received from Dr. Sahi despite numerous attempts.
 - It was clear to Dr. Martin when comparing the amount of Hydromorphone that Dr. Sahi had, his logbooks not adding up and the WDDC information that there was a significant discrepancy with the controlled substance log and documentation.
 - Dr. Martin concluded that Dr. Sahi's logs indicated far lower usage than the amount of Hydromorphone he had purchased and stated that he was not able to follow-up on a full investigation with Dr. Sahi.
73. In summary, Dr. Martin's testimony indicated that (i) there were large quantities of hydromorphone purchased, (ii) the logbooks did not account for these amounts, (iii) the amount recovered and the logbooks did not account for the WDDC orders, (iv) Dr. Sahi did not cooperate with the investigator despite numerous attempts (calls, emails, visits) by the investigator and (v) Dr. Sahi mentioned selling the drugs and asked Dr. Martin what he could write or do to save his family.

Dr. Sahi's Testimony

74. The COC concluded that there was a reasonable evidentiary basis for the Hearing Tribunal to prefer the evidence of the Complaints Director's witnesses to that of Dr. Sahi.
75. There are many instances in the examination of Dr. Sahi where he was inconsistent and appeared evasive.
76. Significantly, Dr. Sahi asserted that he was a mentally healthy person but also very clearly stated the reason for his use of the Hydromorphone is what can only be described as a very serious mental health crisis that led him to serious addiction, and criminal behavior. These stances are in direct contradiction to each other.
77. Dr. Sahi's testimony at the June 24, 220 hearing included numerous instances of accusing multiple persons of essentially being either corrupt, dictatorial or secretly out to get him. These include:

- Page 320 – Clients defaming him to have him eradicated.
- Page 330 – Dr. Gratz being directed by someone to target him.
- Page 401 and 420 – Dr. Martin is a liar.
- Page 434 – The hearing tribunal is directed by someone “gone mad” on him.
- Page 353 – Dr. Gratz manipulating the “honourable PIPS committee”.
- Page 384 – At the end of a long statement about the corruption of the ABVMA, Dr. Sahi states that the ABVMA is corrupted by employees to “kill” those who they don’t like.
- Page 410 – Dr. Martin is trying to please Dr. Buote to get more cases given to him.

78. In summary, the Findings Decision and the Record disclose clear and consistent testimony and evidence which support the allegations and on which the Hearing Tribunal could reasonably make findings of unprofessional conduct. The COC defers to the Hearing Tribunal in terms of its decision to prefer the evidence of the Complaints Director’s witnesses to that of Dr. Sahi and his witness --- particularly since the Hearing Tribunal was in the best position to assess credibility. On that basis, the COC found that there were no incorrect or unsupportable inferences of fact and no logical inconsistencies in the Findings Decision.

C. Contravening an Order of the Hearing Tribunal, Allegation 3 - That Dr. Sahi failed to complete the continuing education ordered by the Hearing Tribunal on December 2, 2015 in accordance with the terms of the Order

79. The Hearing Tribunal relied on Dr. Buote’s evidence that Dr. Sahi failed to comply with the December 2, 2015 Order by not completing five (5) hours of continuing education in radiology and not completing the annual requirement of twenty (20) hours since he had submitted the additional hours of continuing education also for his annual requirement in contravention of that Order. Dr. Buote also indicated that he had advised Dr. Sahi about this non-compliance.
80. The COC agreed with Ms. Smith that it was unlikely that Dr. Sahi was unable to find any course to satisfy his continuing education requirements for radiology and to satisfy his annual requirement. As a professional, the onus is on Dr. Sahi to make reasonable efforts to satisfy the requirements of the continuing education order and the annual requirement of 20 hours.
81. It was therefore reasonable for the Hearing Tribunal to conclude that this allegation was proven.

D. Contravening an Order of the Hearing Tribunal, Allegation 4 - That in the inspection of February 20, 2018, Dr. Sahi was inappropriate in his interactions with the inspector and misleading with respect to the information he provided to the inspector

82. The COC agreed with the Complaints Director that the Hearing Tribunal's Findings Decision "provided clear and lengthy reasons for its preference of Dr. Gratz's clear, consistent and specific evidence (which was corroborated by Dr. Buote's evidence that he attended the subsequent inspection and observed difficulties during the inspection with Dr. Sahi) over Dr. Sahi's general and self-serving evidence".
83. As mentioned earlier in this decision, there was extensive testimony from Dr. Gratz and it was open to the Hearing Tribunal to accept and rely on that testimony (and Dr. Buote's testimony) based on their first hand assessment of witnesses. Similarly, the Hearing Tribunal was also at liberty to determine that there were no cultural or language barriers.
84. The Hearing Tribunal's finding was one of a range of justifiable outcomes based on the evidence before it and was supported by the clear reasons in the Findings Decisions.

E. Controlled Drugs, Allegation 1 - That Dr. Sahi purchased amounts of Hydromorphone from Western Drug and Distribution Centre ("WDDC") in a manner that was disproportionate to the use at Fauna Animal Hospital for the period of 2014 through to 2019 inclusive

85. The purchase records from the period from 2014 to 2019 established that Dr. Sahi purchased 79,050 mg of Hydromorphone. The COC agrees with the submission of the Complaints Director that this quantity of hydromorphone "was extraordinary and wholly disproportionate to the use of a single veterinarian practice such as Fauna Animal Hospital".
86. The Hearing Tribunal had a reasonable evidentiary basis to conclude that there was no legitimate clinical basis to order this quantity of Hydromorphone and that this was definitely disproportionate to the use of Hydromorphone at the clinic over the 5-year period in question.
87. As reflected in the Findings Decision, no convincing or corroborating evidence was presented that Dr. Sahi's intended use of the controlled drugs was ever to open up services to large animals. There was a breach of professional conduct in how the acquisition of the drugs was handled, which suggested improper intent for the use of medication.

88. Further, not only is the lack of an appropriate controlled drug log a failure of professional standards for veterinarians, it suggests that there was intent to use these drugs inappropriately.
89. This finding of unprofessional conduct meets the reasonableness standard.

F. Controlled Drugs, Allegation 2 – That Dr. Sahi inappropriately prescribed and/or dispensed Hydromorphone during the period of 2014 through to 2019, specifically in a manner that is not compliant with the ABVMA Council Guidelines regarding Prescribing, Dispensing, Compounding and Selling Pharmaceuticals

90. The COC's comments above regarding the dispensing and distribution arguments and its comments immediately above regarding "Dispensing Controlled Drugs, Allegation 1" apply to this allegation as well.
91. Importantly and to begin with, Dr. Sahi testified that he personally consumed Hydromorphone.
92. The COC agreed with the Complaints Director's position that the ABVMA Council Guidelines "are clear that all veterinarians must properly record dispensing of all pharmaceuticals and especially so for controlled substances given the significant risks to the public, patients, and veterinarians and their staff."
93. The "prescribing" and "dispensing" that did occur was highly irregular and inappropriate based on the information before the Hearing Tribunal. Very significantly, Dr. Sahi did not create, maintain or produce records of prescribing and dispensing activities to explain or justify almost all of the hydromorphone purchased.
94. The COC found that that there was ample evidence to support the Hearing Tribunal's conclusion that Dr. Sahi's actions constituted inappropriate prescribing and dispensing of a dangerous drug. Prescribing and dispensing a controlled drug to oneself especially when you do not belong to the species you are licensed to work on is not remotely appropriate in any way. This was egregious unprofessional conduct that was clearly not compliant with the ABVMA Council Guidelines regarding Prescribing, Dispensing, Compounding and Selling Pharmaceuticals.

G. Controlled Drugs, Allegation 3 – That Dr. Sahi distributed and/or sold controlled drugs, namely Hydromorphone in amounts and/or in a manner that was not in accordance with the provisions of the Controlled Drugs and Substances Act, SC 1996, c 19, as amended and/or provisions of the Narcotic Control Regulations

95. Dr. Sahi's own testimony was that he personally consumed most of the unaccounted Hydromorphone in the amount of 5-7 ml per night (at a concentration of 10 mg/ml equals to 50-70 mg) for sleeping.
96. As mentioned earlier in this decision, it was within the Hearing Tribunal's discretion to find that meaning of "distribution" should not be confined to a limited definition of giving to a distinct third party.
97. Obtaining Hydromorphone under the guise that it would be used legally for the purpose of administering that drug to animal patients could reasonably be seen as "distribution" in the context of a professional's obligations. Consistent with the Findings Decision, there was an abundance of evidence that Dr. Sahi obtained Hydromorphone for his personal capacity and distributed hydromorphone to himself for personal use. Furthermore, it was open to the Hearing Tribunal to find that Dr. Sahi's evidence about his personal consumption of the Hydromorphone was not credible and that his evidence was vague and evasive.
98. In considering this Allegation the Hearing Tribunal acted within its jurisdiction, knowledge and expertise. This finding ---and the other findings--- of unprofessional conduct is not akin to a finding of guilt of a criminal offence. It was a determination of whether conduct that was outside the professional and ethical obligations of Dr. Sahi occurred.
99. This finding of unprofessional conduct is consistent with the standard of reasonableness

H. Controlled Drugs, Allegation 5 – That Dr. Sahi failed to respond to the investigator's emails and telephone calls to Dr. Sahi with respect to the investigation

100. Dr. Martin's evidence at the Hearing was that he emailed and telephoned Dr. Sahi numerous times for an interview and went to Dr. Sahi's clinic and received no response from Dr. Sahi. Other similar evidence given by Dr. Martin is referred to earlier in this decision. In contrast, there were multiple instances in this case where Dr. Sahi made unsubstantiated claims that other professionals involved were untrustworthy or out to get him in various ways.

101. Consistent with the Findings Decision, the Hearing Tribunal members could prefer and accept what they saw as consistent and credible evidence of Dr. Martin over the evidence given by Dr. Sahi.
102. It was therefore reasonable for the Hearing Tribunal to determine that Dr. Sahi failed to respond to Dr. Martin's emails and telephone calls in relation to the Hydromorphone investigation
103. This finding of unprofessional conduct is consistent with the standard of reasonableness

X. FINDINGS AND REASONS: THE PENALTY DECISION

104. The COC agreed with the Complaints Director that the reasonableness standard also applies with respect to a review of the sanctions. From an overall perspective, the COC accepted the submissions and arguments of the Complaints Director concerning the Penalty Decision.
105. The COC found that the penalty orders of the Hearing Tribunal were supported by tenable reasons and grounded in the evidence before the Hearing Tribunal. Among other things, the 12 page Penalty Decision was detailed, reflects that the Hearing Tribunal considered the *Jaswal* factors and sets out a justification for each penalty order.
106. The Hearing Tribunal's Penalty Decision addresses the core principle of self-regulation: protection of the public and preserving the integrity of the profession.
107. Despite being an experienced practitioner, Dr. Sahi failed to demonstrate insight into or acceptance for his actions.
108. Dr. Sahi's conduct was well outside the range of acceptable conduct. The nature and duration of the unprofessional conduct was exceptionally serious and that in turn required very serious sanctions. Cancellation of registration as one penalty was clearly warranted.
109. The Hearing Tribunal's Penalty Decision was justified, transparent, and intelligible.
110. The COC concluded that the penalty orders should not be interfered with by the COC.

XI. DECISION

111. For the reasons stated above and after considering all the information before it (including the oral submissions received from both parties) and in accordance with the VPA Section

45(5)(b), the COC confirms the findings of unprofessional conduct and the sanctions ordered by the Hearing Tribunal.

112. Given its decision, the COC requests that both parties consult and then determine the manner in which submissions will be made to the COC concerning the costs of this appeal and any order by the COC concerning those costs.

Committee of Council of the Alberta Veterinary Medical Association

Dated: Jan 25th, 2022.



Dr. Daren Mandrusiak, Chair
On behalf of the Committee of Council