In the Court of Appeal of Alberta

Citation: Dr Ignacio Tan III v Alberta Veterinary Medical Association, 2026 ABCA 176

Date: 20260525
Docket: 2403-0263AC
Registry: Edmonton

Between:

Dr. Ignacio Tan III

Appellant

- and -

Alberta Veterinary Medical Association

Respondent

The Court:

The Honourable Justice Bernette Ho
The Honourable Justice William T. de Wit
The Honourable Justice Karan M. Shaner

Memorandum of Judgment

Appeal from the Decisions by
The Committee of Council of the Alberta Veterinary Medical Association
Dated the 6th day of November, 2024 and the 30th day of January, 2025

Memorandum of Judgment

The Court:

[1] A hearing tribunal of the Alberta Veterinary Medical Association (hearing tribunal) found the appellant guilty of unprofessional conduct. In a separate decision, the hearing tribunal imposed sanctions on the appellant and ordered him to pay certain costs of the hearing. On appeal, the Committee of Council of the Alberta Veterinary Medical Association (council) confirmed both hearing tribunal decisions. In a separate decision, the council ordered the appellant to pay the costs of the appeal.

[2] The appellant appeals nearly the entirety of the council's decisions. For the reasons that follow, the appellant's appeal regarding unprofessional conduct and the associated sanctions is dismissed. The appellant's appeal regarding costs is allowed, and that matter is remitted to the council for reconsideration.

Background

[3] Dr Tan was the responsible registered veterinarian of Mercy Animal Hospital (MAH) at the time of the events giving rise to this appeal. Clients brought their cat to MAH for treatment. Dr Tan sedated the cat, performed a procedure, and sent him home the same day. Two days later, the cat was re-admitted to MAH and passed away. The clients informed an employee of MAH that they wanted to have their cat cremated individually. Instead, the cat was cremated communally. When the clients went to MAH to pick up their cat's cremains, an employee of MAH provided them with a container filled with communal cremains on the pretense that it was their cat. The clients suspected they were not given their cat's cremains, which was confirmed after making inquiries at the crematorium. After being unable to get a satisfactory explanation from Dr Tan, they filed a complaint against him.

[4] The Amended Notice of Hearing dated June 7, 2023 set out six allegations of unprofessional conduct. On May 1, 2024, the hearing tribunal issued a decision (Merits Decision) which found that Dr Tan was guilty of four instances of unprofessional conduct:

(a) that as responsible veterinarian, Dr Tan failed to ensure that he appropriately provided guidance and exercised authority for the practice of veterinary medicine at MAH in failing to ensure accurate information was provided to the clients regarding their cat's cremains;

(b) that as responsible veterinarian, Dr Tan failed to communicate with the clients to address their concerns;

(c) that on June 17, 2020, Dr Tan failed to have a dedicated anesthetist present with respect to the removal of the urethral obstruction; and

(d) that Dr Tan failed to create and/or maintain appropriate medical records with respect to the cat.

[5] On July 11, 2024, the hearing tribunal issued a decision (Sanctions Decision) which imposed the following sanctions in relation to the findings of unprofessional conduct:

(a) Dr Tan received a written reprimand through the decision.

(b) Dr Tan was ordered to serve a 60-day suspension;

(c) Dr Tan was ordered to complete 25 hours of continuing education relating to anesthesiology;

(d) Dr Tan was ordered to complete a course on communication in veterinary medicine;

(e) Dr Tan was ordered to pay 50 percent of the actual costs of the investigation and hearing, up to a maximum of $42,500.00; and

(f) the matter would be published on a "with names" basis.

[6] On November 6, 2024, the council issued a decision that dismissed an appeal from the Merits Decision and the Sanctions Decision. On January 30, 2025, the council issued a decision (Appeal Costs Decision) that required Dr Tan to pay full indemnity of the actual costs of the appeal.

Grounds of appeal

[7] The appellant's numerous grounds of appeal can be distilled into six grounds:

(a) errors related to the finding that Dr Tan failed to ensure that he appropriately provided guidance, and exercise of authority for the practice of veterinary medicine at MAH;

(b) errors related to the finding that Dr Tan failed to communicate with the clients to address their concerns;

(c) errors in finding that Dr Tan was required to have a dedicated anesthetist present with respect to the removal of the urethral obstruction;

(d) errors in finding that Dr Tan failed to create and/or maintain appropriate medical records with respect to the cat;

(e) errors in relation to the sanctions; and

(f) errors in relation to the costs awards.

Standard of review

[8] The appeal from the council's decisions to this Court was made pursuant to section 45.1 of the *Veterinary Profession Act*, RSA 2000, c V-2 [*VPA*]. The applicable standard of review was accurately described in several recent appeals involving Dr Tan as follows:

> (a) The Committee of Council relied on this Court's guidance respecting the internal standard of review in reviewing the Hearing Tribunal's decision. That guidance is set out at paragraph 35 of *Yee v Chartered Professional Accountants of Alberta*, 2020 ABCA 98, and need not be repeated here.
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> (b) The standards of review set out in *Housen v Nikolaisen*, 2002 SCC 33, apply to this Court's review of the Committee of Council's decision. Conclusions on questions of law are reviewed for correctness; findings of fact and findings on questions of mixed fact and law are reviewed for palpable and overriding error unless there is an extricable error of law.
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> (c) Sanctions and costs in professional disciplinary matters are reviewed for reasonableness.
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> *Dr Ignacio Tan III v Alberta Veterinary Medical Association*, 2025 ABCA 119 at para 104, citing *Dr Ignacio Tan III v Alberta Veterinary Medical Association*, 2024 ABCA 94 at para 2.

[9] Questions of procedural fairness require the reviewing court to determine whether the standard of fairness has been met in the circumstances: *Muradov v College of Naturopathic Doctors of Alberta*, 2024 ABCA 224 at para 13.

Analysis

[10] We will address the above-listed grounds of appeal in turn.

(a) Guidance and authority

[11] The appellant was found guilty of unprofessional conduct for failing to ensure he appropriately provided guidance and exercised authority for the practice of veterinary medicine at MAH. There were three specific claims particularized in relation to this allegation, but the hearing tribunal found that one had been proven.

[12] The hearing tribunal found that factually, the appellant was aware of the very serious allegations raised in relation to the cremains, and that his response was limited to directing a non-veterinarian employee to investigate and deal with the matter. The hearing tribunal found the appellant took no steps to supervise and guide his employees in dealing with the matter, to review the accuracy of the investigation, or to ensure accurate information was provided to the clients. The hearing tribunal found that these were serious failures that constituted unprofessional conduct. The council upheld these findings and rejected the appellant's argument that the allegation could not be proven because two out of three of the supporting particulars were not proven.

[13] A hearing tribunal generally cannot find a regulated person guilty of unprofessional conduct based on an allegation that is not set out in the notice of hearing, and a notice of hearing must contain sufficient particulars to provide the regulated person with adequate notice of the case to meet: *Visconti v College of Physicians and Surgeons of Alberta*, 2010 ABCA 250 at paras 11-13; *MacLeod v Alberta College of Social Workers*, 2018 ABCA 13 at para 24; *Alsaadi v Alberta College of Pharmacy*, 2021 ABCA 313 at paras 23, 25, 29. The Amended Notice of Hearing provided the appellant with sufficient particulars to adequately know the case against him. We are not persuaded the Amended Notice of Hearing is drafted in such a way as to require all three particulars to be proven to establish unprofessional conduct. In addition, the appellant has failed to establish any reviewable error in the council's decision to uphold the substance of the finding of unprofessional conduct based on some, but not all, of the particulars.

(b) Failure to communicate with clients

[14] The hearing tribunal found the clients called MAH asking to speak with the appellant on many occasions, but the only time they were able to get the appellant on the phone was when they used a fake name. The hearing tribunal found that even after this occurred, the appellant did not take steps to address the issue and call the clients back until after the complaint was filed. There was evidence the appellant directed his staff to screen calls so he could avoid the clients. The hearing tribunal found this constituted unprofessional conduct. The council upheld these findings and rejected the argument that this allegation had to be stayed as it was duplicative of the previous allegation of unprofessional conduct related to overseeing his staff.

[15] The hearing tribunal's findings regarding the appellant's conduct relative to the clients was available on the record. There is no basis to interfere with the tribunal's finding that the appellant was slow in responding to the clients and took steps to avoid dealing with them.

[16] Further, the argument that the appellant faced duplicative allegations was not advanced before the hearing tribunal. This argument relied upon the principle expressed in *Kienapple v R*, 1974 CanLII 14 (SCC), [1975] 1 SCR 729 which prevents a person from being convicted of multiple offences if there is a sufficient factual and legal nexus between the offences: *R v Wolfe*, 2024 SCC 34 at paras 71-74. This principle can be applied in professional disciplinary proceedings: *Danyluik v Institute of Chartered Accountants of Alberta (Complaints Inquiry Committee)*, 2014 ABCA 78 at para 20. However, we are not satisfied that the council erred in its

articulation or application of this principle. The first finding of unprofessional conduct related to the appellant's inadequate oversight of his staff in relation to the response to the cremains incident. The second finding of unprofessional conduct related to the appellant's failure to properly communicate with the clients directly when they were seeking to communicate with him personally. The appellant has not established a reviewable error on this point.

(c) Dedicated anesthetist

[17] It is not in dispute that on June 17, 2020, the appellant performed a procedure to unblock a urethral obstruction on the cat, the cat was sedated, and there was no designated anesthetist present.

[18] Anesthesia is addressed in *Alberta Veterinary Medical Association Practice Inspection and Practice Standards Bylaw*, SC-4. The applicable version states that:

> A designated anesthetist (separate from the veterinarian or veterinary technologist performing the procedure) must monitor patients **under general anesthesia and ~~or~~** [sic] **prolonged and/or deep sedation**. The anesthetist must be a registered veterinarian, or a registered veterinary technologist under the supervision of a veterinarian. If, in the exceptional circumstance where the veterinarian believes the procedure must be done without an available designated anesthetist, informed consent must be documented in the medical record. Written informed consent acknowledging the absence of a dedicated anesthetist, and the increased risk to the patient, must be obtained from the owner, appropriately documented and be very clear to the client.
>
> [emphasis added]

[19] In the same section of the same document, the terms "general anesthesia" and "sedation" are defined, but the term "deep sedation" is not.

[20] The hearing tribunal found that the appellant used dexmedetomidine, ketamine and butorphanol to sedate the cat. The hearing tribunal found this constituted deep sedation and no exceptional circumstances applied. Therefore, the appellant breached the practice standard in a manner that displayed a lack of knowledge or judgment in the practice of veterinary medicine. The council upheld the hearing tribunal's conclusion and noted that the appellant did not present any evidence to support his contention that the sedatives administered did not result in "deep sedation".

[21] The appellant submits that the hearing tribunal erred in its interpretation of the practice standard by only applying the definition of sedation rather than considering the meaning of deep sedation, and that the sedation administered to the cat did not constitute deep sedation. We disagree. The hearing tribunal considered all relevant definitions in coming to its conclusion, and the council came to the same conclusion. We see no reviewable error in these findings.

(d) Appropriate medical records

[22] The hearing tribunal acknowledged that not every imperfection in medical records rises to the level of seriousness necessary to warrant a finding of unprofessional conduct. However, the hearing tribunal found that the appellant's medical records relating to the cat contained significant deficiencies, gaps, and confusing information. In the circumstances, there was a substantial departure from the expected standards of practice that amounted to unprofessional conduct. The council upheld this finding, reasoning that there was more than sufficient evidence before the hearing tribunal to conclude the nature of the problems with the cat's medical records constituted unprofessional conduct.

[23] The appellant submits that this was an error and challenges some of the factual findings supporting the conclusion that the record keeping was significantly flawed. We are satisfied there was ample evidence to support the finding of guilt regarding this allegation and we are not persuaded that appellate intervention is required.

(e) Sanctions

[24] The hearing tribunal considered the factors set out in *Jaswal v Medical Board (Nfld)*, 1996 CanLII 11630 (NL SC), 42 Admin LR (2d) 233 in determining an appropriate sanction. The council endorsed this approach and concluded the Sanctions Decision was reasonable.

[25] The appellant submits that the hearing tribunal incorrectly applied the *Jaswal* factors leading to the imposition of inappropriate sanctions. The appellant submits the council simply reiterated the hearing tribunal's analysis without engaging in a meaningful reasonableness review. He submits the entirety of the Sanctions Decision should be overturned, and in the alternative submits the suspension should be overturned.

[26] The hearing tribunal has broad authority to order sanctions in relation to findings of unprofessional conduct: *VPA*, s 41.1(1). The non-exhaustive list of factors in *Jaswal* continues to provide helpful guidance to professional regulators in determining appropriate sanctions in relation to findings of unprofessional conduct: *Jaswal* at para 35; *Charkhandeh v College of Dental Surgeons of Alberta*, 2025 ABCA 258 at para 86. The appellant has failed to establish that the sanctions issued are unreasonable.

(f) Costs

[27] The appellant also appeals the council's decision to uphold the Sanctions Decision on costs and the Appeal Costs Decision. In both the Sanctions Decision and the Appeal Costs Decision, the decision-makers relied on the costs framework for professional disciplinary proceedings established in *Jinnah v Alberta Dental Association and College*, 2022 ABCA 336. As recognized by the parties during the hearing, a five-member panel of this Court recently revised this framework in *Charkhandeh*. Recently, in a similar appeal involving nearly the same parties and

the same issue, this Court determined that the appropriate approach in the circumstances was to return the matter of costs back to the council for reconsideration: *Dr Ignacio Tan III v Alberta Veterinary Medical Association*, 2026 ABCA 32 at paras 38-40. We find that this approach is also appropriate in this case and note that the council has various powers to refer the matter back to the hearing tribunal if it decides a further evidentiary process is warranted: *VPA*, ss 45(4)(a), 45(5)(c).

Conclusion

[28] With the exception of the appeal as to costs, the appeal is dismissed. The appeal is allowed in relation to the costs awarded by the hearing tribunal and the council, and these issues are remitted to the council for reconsideration.

Appeal heard on February 3, 2026

Memorandum filed at Edmonton, Alberta
this 25th day of May, 2026

Ho J.A.

de Wit J.A.

Shaner J.A.

Appearances:

D.J. Girard
A. Barreto
for the Appellant

N. Tran
for the Respondent