

CASE SUMMARY – 2017-03 – SVMA vs Dr. Ted Dupmeier

Pursuant to section 22(3) of *The Veterinarians Act, 1987* the Discipline Committee was directed to hear the charges against Dr. Ted Dupmeier as set out in the formal complaint to the Discipline Committee by the Professional Conduct Committee, namely:

THAT DR TED DUPMEIER is guilty of professional misconduct in that he:

1. upon having the practice inspected and given notice of deficiencies to be corrected failed to correct those deficiencies as required and did thereby breach sections 1(u), 2(c), 5(a), (d), (e), (f), (i), 5B(b) 2,3,4,5,7, 7(j) and 8(d) of the Practice Standards thereby contravening sections 22.8(a), (b), (c), (d), 31.10, 31.11.3(d), (g), 33.1, 33.7 and 35.9 of the Bylaws of the Saskatchewan Veterinary Medical Association and sections 15 and 24.1(a), (b) and (c) of *The Veterinarians Act, 1987*;
2. failed to maintain adequate medical records as required by sections 5 and 5B of the Practice Standards of the Saskatchewan Veterinary Medical Association and did thereby breach the Practice Standards and sections 22.8(c), (d), 31.11.1, 31.11.3(d), (g), 33.1, 33.7, 35.8 of the Bylaws of the Saskatchewan Veterinary Medical Association and section 15 of *The Veterinarians Act, 1987*;
3. failed to maintain adequate medical records as required in sections 5 and 5B of the Practice Standards of the Saskatchewan Veterinary Medical Association and did thereby breach the Practice Standards and sections 22.8(c), (d), 31.11.1, 31.11.3(d), (g), 33.1, 33.7, 35.8 of the Bylaws of the Saskatchewan Veterinary Medical Association and section 24(a), (b) of *The Veterinarians Act, 1987*;
4. failed to maintain the practice in compliance with practice standards, the Act and the bylaws as required by section 15 of *The Veterinarians Act, 1987*, thereby breaching sections 24.1(a), (b) and (c) of *The Veterinarians Act, 1987*;
5. failed to create and maintain veterinary client patient relationships with 13 named clients, thereby violating section 7(j) of the Practice Standards, sections 31.11.1, 31.11.3(d) and (g), 31.11.6(c) of the Bylaws of the Saskatchewan Veterinary Medical Association thereby breaching sections 24(a) and 24.1(a), (b) and (c) of *The Veterinarians Act, 1987*;
6. did permit the sale of drugs listed on The Prescription Drug List mandated by Health Canada as requiring a prescription, for which no or insufficient medical records and therefore no veterinarian client patient relationships were created to support such sales thereby contravening sections 5, 5B and 7(j) of the Practice Standards, sections 22.8(a), (b), (c), (d), (e), (f), (s), 31.11, 32.1, 33.1, 33.7 and 35.8 of the Bylaws of the Saskatchewan Veterinary Medical Association and sections 24(a) and 24.1(a), (b) and (c) of *The Veterinarians Act, 1987*;
7. failed to cooperate and comply with the demands of the Practice Standards Committee, a special committee appointed by council pursuant to section 11 of *The Veterinarians Act, 1987*, thereby contravening sections 22.8(f) and (i) of the Bylaws of the Saskatchewan Veterinary Medical Association and sections 15, 24(a), (b) and (c) of *The Veterinarians Act, 1987*;
8. failed to cooperate and comply with the demands of the Professional Conduct Committee, a committee established pursuant to section 19 of *The Veterinarians Act, 1987* thereby contravening sections 22.8(f) and (i) of the Bylaws of the Saskatchewan Veterinary Medical Association and sections 15, 24(a) and 24.1(a), (b) and (c) of *The Veterinarians Act, 1987*.

It should be noted that the events in this case took place mainly in 2016 and therefore all charges related to the Bylaws, Practice Standards and definition of the VCPR in place at the time (note: the definition of a VCPR changed in September 2015).

Prior to 2011, Dr. Dupmeier was the sole owner of S.W. Cattle Care Veterinary Consultants Prof. Corp. The business was sold to Standard Nutrition (Canada) Co. in January 2011. Based on the evidence presented to the Disciplinary Committee and the evidence of the witnesses, it was reasonable to assume that Dr. Dupmeier was under the impression he had sold the business in its entirety (although he did not inform the SVMA so that they could challenge the ownership agreement). He was no longer concerned with the day-to-day management and operation

of the company, but continued to be employed as an “outside veterinarian” providing veterinary services on a contract basis.

The Disciplinary Committee found this to be an extremely difficult case. The main issues raised related to how professional responsibility was shared by the veterinarian and the veterinary practice. While Dr. Dupmeier was working for Cattle Care (based on the sales agreement, his name on practice documents and the fact that Cattle Care was covering his insurance) indicated he did bear some responsibilities for the actions of the veterinary practice as outlined in Bylaws.

Since Dr. Dupmeier was not a practice owner at the time of the inspection, the DC found Dr. Dupmeier not guilty of Counts 1, 4, and 7.

The responsibility for the medical record rests with the veterinarian who created it. No blame can be put on non-veterinary office staff if medical records are deficient. In addition, medical records must be maintained by the practice, not the client. Dr. Dupmeier was found guilty of professional misconduct due to his breach of Practice Standards 5 and 5A - failure to maintain adequate medical records.

The DC found Dr. Dupmeier guilty of Counts 2 and 3 as stated in the Formal Complaint.

The right to prescribe and dispense medications is an important part of veterinary practice. This right is dependent on maintaining a valid VCPR. It is also the responsibility of all veterinarians to ensure that medications are dispensed appropriately.

Dr. Dupmeier was found guilty of professional misconduct due to his breach of Practice Standard 7(j) - Prescription drugs are dispensed only after the establishment of a valid veterinarian-client-patient-relationship as defined in the Code of Ethics and of Bylaw 31.11 - the definition of a VCPR.

The DC found Dr. Dupmeier guilty of Counts 5 and 6 as stated in the Formal Complaint.

Dr. Dupmeier’s interactions with the SVMA during this case were not always professional and cordial. A subpoena was required to compel Dr. Dupmeier to meet with the PCC in November 2017 and the behavior of Dr. Dupmeier’s lawyer during said interview was both unacceptable and obstructionist. Dr. Dupmeier’s second interview with the PCC in December 2018 was much less confrontational. It was the DC’s opinion that Dr. Dupmeier was responsible for both his behavior and that of his lawyer.

Dr. Dupmeier was found guilty of professional misconduct due to his breach of Bylaw 22.8(i) where he failed to provide the PCC with information reasonably requested of him.

The DC found Dr. Dupmeier guilty of Count 8 as stated in the Formal Complaint.

During deliberation the DC paid strict attention to the submissions made during the penalty and costs hearing, to the precedents set by previous cases, and to the Court of Appeals decision in *Abrametz v Law Society*.

The DC could not discount the fact that the case had dragged on for over four and a half years and that many of the costs were a direct result of Dr. Dupmeier’s actions against the SVMA. The matter could have been settled more expeditiously and at a significantly reduced cost had Dr. Dupmeier cooperated with the SVMA’s investigation.

The DC felt it was important to demonstrate the significance of each of the guilty verdicts by laying fines and by reducing the order for costs. In order to demonstrate the seriousness of the offences and Dr. Dupmeier’s role in extending this case, the DC determined the fines for each of Counts 2, 3, 5 and 6 should be relatively small (\$250) and the fine for Count 8 should be \$9,000, resulting in a total fine of \$10,000, the maximum fine allowable.

The majority of the DC’s time was spent in dealing with the matter of costs. At the time of the hearing the costs, as reviewed by the DC, were approximately \$125,000 and were expected to reach \$132,000 by the completion of the case. The DC took into consideration this was one of the most expensive cases to date. It also recognized that the costs associated with the case represented a significant financial burden to both the SVMA and to Dr. Dupmeier.

Given the fact there are approximately 800 SVMA members, the costs of this case would equate to \$165 per member. This is not an insignificant amount and the DC felt it was unfair to penalize the membership as a whole for the behavior of one individual.

Furthermore, with respect to the issue of apportionment and payment of 'significant' costs awards generally, this panel recognizes the potentially daunting challenge to individual members subject to discipline who are required to pay some or all of these, and indeed to the SVMA itself, which may be pressed to justify to its members why complaint matters resulting in arguably mild sanctions, such as a reprimand, nevertheless generate costs which may prove formidable for a disciplined member and appear disproportionate to the sanctions imposed.

The DC again looked at precedent set in related cases, and at the details of previous attempts to settle this matter through a Joint Proposal for Disposition and Penalty. It was apparent that Dr. Dupmeier had turned down an offer of \$40,000 in costs and that another member, in a similar case, had paid costs in excess of \$60,000 for which a joint submission was accepted prior to a hearing.

The DC determined a Letter of Reprimand should form part of Dr. Dupmeier's permanent record. Also, to be consistent with other cases involving deficiencies found in medical record-keeping, that he be required to complete a continuing education course to ensure that going forward best practices are followed.

The DC felt that since Dr. Dupmeier's actions did not result in any direct harm to humans or animal health that a suspension was not warranted.

The DC did recognize that Dr. Dupmeier has been a member of the SVMA in good standing for some 45 years and has provided a service to clients and their animals throughout that time, as evidenced by the numerous producer submissions in support of him.

Penalty:

1. A Letter of Reprimand which will form part of Dr. Dupmeier's permanent record with the SVMA.
2. Dr. Dupmeier is fined in the amount of \$250 for each of Counts 2, 3, 5 and 6 and \$9,000 for Count 8 for which the Discipline Committee found him guilty. For a total fine of \$10,000. Payment to the SVMA shall be received on or before April 30, 2021. If Dr. Dupmeier fails to do so that he be suspended until payment in full has been received.
3. To pay to the SVMA \$75,000, reflecting a portion of the total costs of \$134,119.45 of the hearing and investigation. Payment in full shall be received on or before December 31, 2021. If Dr. Dupmeier fails to do so that he be suspended until payment in full has been received.
4. In the event of extenuating circumstances such that Dr. Dupmeier cannot meet the deadline for payment of fines and costs that the matter of an extension be referred to the SVMA Council.
5. If Dr. Dupmeier terminates his registration with the SVMA that the matter of enforcement of the payment of fines and costs be referred to the court pursuant to section 32.1 of *The Veterinarians Act, 1987*.
6. Dr. Dupmeier shall complete at his own expense, and provide proof of completion, the on-line course entitled, "Veterinary Medicine: Medical Records The Roadmap to Quality Care" as recommended by the SVMA. Any failure by Dr. Dupmeier to complete the assigned medical record-keeping course by November 30, 2021 will result in Dr. Dupmeier's licence to practice Veterinary Medicine in the Province of Saskatchewan not being renewed.