

IN THE MATTER OF the *Veterinarians Act*, SBC 2010, c. 15, as amended

The College of Veterinarians of British Columbia

(the “CVBC”)

– and –

Dr. Janice Posnikoff

(the “Respondent”)

DECISION ON A DISCIPLINE HEARING

Panel	Carol Baird Ellan K.C., Chair Dr. Al Runnells Dr. Ian Welch
Dr. Janice Posnikoff	Appearing without counsel
Counsel for the College	Allan Doolittle Natasha John
Date of Decision	July 16, 2025

There is a ban on publication of the names of witnesses in this matter and any information that would tend to identify them. The terms of the ban are published on the CVBC website. In addition, in compliance with Section 298 of the Bylaws, this Decision does not include the names of any witnesses other than the Respondent.

Warning: This decision contains graphic descriptions of the death of an animal.

A. Overview

[1] This case involves an unfortunate experience for the young owner of a horse (the “Complainant”), who on July 24, 2021, witnessed her beloved mare (the “Mare”) break her leg shortly after she was turned out in a paddock at a boarding facility. The Complainant and others who were present made efforts to find a veterinarian who could attend on an emergency basis,

and ultimately two local veterinarians attended. The Respondent, Dr. Posnikoff, who runs Okanagan Equine Veterinarian Services, was the second to arrive.

[2] The Complainant and others present allege that Dr. Posnikoff was unprofessional and discourteous when she found that another veterinarian was already present. The issues to be determined are what Dr. Posnikoff said, or conveyed, to those in attendance upon her arrival, and once that is determined, whether her behaviour amounts to professional misconduct; conduct unbecoming a College registrant; or non-compliance with any specific CVBC Bylaw provisions.

[3] The evidence at the hearing came from the Complainant, her mother, and a friend; the other veterinarian, who had arrived first; the Respondent and her practicum student; and a horse trainer. Their evidence is summarized in Part D.

B. Citation

[4] The Citation alleges as follows:

1. On or about July 24, 2021, you arrived at a farm in answer to an emergency call requesting a horse, [the Mare], owned by [the Complainant], be euthanized. After arrival, and upon learning that you were not the only veterinarian who had been called in relation to the emergency, you became angry and behaved unprofessionally. The particulars of this allegation include that you failed, in the circumstances of emergency care involving an emotional matter, to be courteous, respectful and professional in your dealings with:
 - a. the other CVBC registrant who was treating [the Mare]; and
 - b. others at the scene, including [the Complainant] and [her] mother.
2. The conduct set out above in paragraph 1 constitutes professional misconduct, or in the alternative, conduct unbecoming a registrant of CVBC.
3. The conduct set out above in paragraph 1 constitutes non-compliance with sections 203(1) and (2), 206(1), 209(a) and (d), and 210(b) of the CVBC Bylaws.

C. Legal Framework

[5] The sections referred to or engaged in the Citation read as follows:

Act:

61 (1) On completion of a discipline hearing, the discipline committee may by order (a) dismiss the matter, or (b) make one or more of the following determinations:

(i) the respondent has not complied with this Act, a regulation or a

Bylaw;

...

(iv) the respondent has committed professional misconduct or conduct unbecoming a registrant...

CVBC Bylaws, Ethics and Standards:

Division 4.2 – Code of Ethics

Purposes

202(1) The purpose of the Code set out in this Division is to provide a general statement of the principles of ethical conduct required and expected of registrants in order to fulfill their duties to the public, their clients, their patients, the profession and their colleagues.

(2) The Code sets out general rules of registrant conduct and does not limit the duty of how a registrant conducts him or herself appropriately.

General principles

203(1) A registrant must conduct him or herself in accordance with the spirit of the Code.

(2) A registrant must at all times be courteous, respectful and professional in all dealings with clients, the public, other registrants and registrants of other professions.

Duty to the public

206(1) A registrant must protect and serve the public interest in pursuit of the highest medical and ethical standards of the profession in British Columbia.

Duty to the profession

209. A registrant must

(a) uphold and advance the honour and dignity of the profession and promote its high standards of ethical conduct;

...

(d) provide veterinary services to the public in a manner that will command respect and confidence;

...

Duty to other registrants

210. A registrant must

...

(b) ensure that his or her interactions with other registrants are characterized by the hallmarks of professionalism, including respect, courtesy, candor and good faith...

D. Evidence

1. The Complainant's Testimony

[6] The Complainant was perhaps 18 or a bit older at the time of the incident. She had considerable experience with horses and had worked for several equine veterinarians. She acquired the Mare when it was born, in April 2015. She kept her at a boarding facility close to her home. In her testimony, she described the incident as follows.

[7] It was a hot summer day in July 2021, and the Complainant and two of her friends had been to the beach, after which they went to the boarding facility to attend to their horses' needs. The intention was to bring the two horses belonging to one of the friends (the "Friend") in from the pasture and let the Complainant's two horses out, referred to as "turning out."

[8] Shortly after the Complainant's two horses were turned out, as the Mare was running towards the Complainant and her friends, the Complainant heard a loud snap. She saw the Mare do a full somersault and hit the ground really hard, and by the time she was back up, she was bleeding below the knee. Her leg was essentially severed at the joint, with blood spraying from the wound. The Complainant was immediately aware as an equestrian that the Mare would need to be put down.

[9] The Complainant thought she had probably started screaming at that point. She added, in her testimony, that "[t]he other shitty thing" was that she had no phone with her. It took her some time to process what was happening, but her friends had their phones, and one called the Complainant's primary vet (the "Primary Vet") several times. When they couldn't reach the Primary Vet, they called the Respondent's emergency veterinarian service, Okanagan Equine Veterinary Services ["OEVS"]. They also called the Complainant's mother (the "Mother"), who arrived shortly.

[10] While they waited for a veterinarian to attend, the Complainant tried to get the Mare haltered, which to the Complainant's observation caused additional injury and bleeding when the Mare resisted. The Complainant recognized that she needed someone to help contain the Mare. The proprietor of the boarding facility came out to the paddock to try to help, as the Mare struggled on her own. Some thought was given to having the proprietor's partner, a hunter, shoot the horse, but he was not available.

[11] The Primary Vet then called the Friend back and said she would come. She arrived shortly thereafter, and before the Respondent. She and the Complainant arranged for the horse to fall properly with sedation and the Complainant lay down with her, as the Primary Vet prepared a second medication.

[12] The Complainant testified that the Respondent arrived at this point, and she was angry: she slammed the car door and said something like, "Isn't this fucking great." The Complainant

said she was “within earshot” while the Respondent was interacting with her mother, and that her mother later told her that the Respondent was swearing and saying she had left a mare in foal.

[13] In her testimony, the Complainant described the Respondent’s interaction with the Primary Vet as follows:

[It] was also told to me that she was being disrespectful towards [the Primary Vet], who was attending the horse at the time, and I can hear this from where I'm laying with my horse, and it was just--it took mayhem to like way worse because it just wasn't helping any of the situation...

[14] The Complainant said she could hear arguing from where she was, and she understood that her mother and the Friend were trying to pay the Respondent and get her to leave. She did not hear the Respondent offer to help. The Complainant concluded her testimony with the observation that Dr. Posnikoff’s behaviour at the incident made a traumatic experience worse, because she felt her horse was not able to pass peacefully, and the experience had lingered with her.

[15] In cross-examination by Dr. Posnikoff, the Complainant said she believed the group in the pasture was five feet from the fence line when Dr. Posnikoff arrived. The Complainant said that she got a “whole recollection” of the events after speaking with others who were present. In terms of what the Complainant herself heard, she said when Dr. Posnikoff got out of her vehicle she was yelling. She was not sure whether she said, “oh,” or “well”, but she said, “Isn’t this fucking great, I had to leave a mare in foal.” She heard arguments, and when Dr. Posnikoff came over to see the Mare, she said, “Oh, that’s bad.”

[16] The Complainant agreed that the pool of emergency veterinarians in the area was limited and that emergencies of this kind were also stressful for veterinarians. She indicated that she did not have time to let Dr. Posnikoff know that the Primary Vet had agreed to attend because they both arrived only about five minutes after she had learned the Primary Vet was coming, and she thought it was a good idea to have two veterinarians present in case the Primary Vet, who she understood had a prior hand injury, needed help with the Mare. She also had not told the Primary Vet that she had called Dr. Posnikoff, and those present had not discussed informing the vets.

2. The Complainant’s Prior Statements

[17] The Complainant sent an email to the Respondent’s office within a week of the incident, on July 30, 2021, in which she stated:

This is a letter of complaint in regards to Janice Posnikoff and her absolutely unprofessional behaviour for this emergency call visit.

To give you some background information before your arrival. This horse was acting so frantically that by the time I had contacted [the other vet] I did momentarily question

contacting you guys to dismiss the call, (my priority was who could get there on a FCFS [first-come-first-served] basis as my horse was suffering) however I was also aware [the other vet] had an injury and considering the scenario at hand, thought two veterinarians may be needed to deal with the euthanasia. When [the Respondent] arrived on the farm... she was clearly angered at the fact that another veterinarian was there. Her comment when we stated we would pay call out was "YAH YOU WILL..." and as I was sitting trying to grieve with my horse I could hear her snidely remark... "Ya that's bad." [She] proceeded to question [the Primary Vet] in the same tone, and stated that [she] left a foal to come here. (Which definitely is the time to compare situations, so thank you so much).

With the attitude and aggressiveness you approached with, I can tell you there is absolutely no way that horse would have even let you approach. Multiple people made comments on your professionalism (or lack there of), and that none of them will seek services from you going forward. That was ten people for context.. I've had nothing but great experiences from Okanagan Equine. [Name] who priorly worked out of the office and [Name] have been excellent. I've also heard excellent things about [Name]. But under no circumstances will I ever seek Janice out. If she conducts her veterinarian skills anything like her bedside manner and professionalism, I don't want it. I hope you actually take this to heart and reconsider your actions, criticism is hard to take but you ruined a already traumatic experience for me, and trust me this isn't even close to the type of pain I felt, on top of your remarks that definitely impacted me to a worse state. I hope the next time you approach a situation like that you don't ruin it for someone else.

[18] The Respondent's office replied on August 3, 2021 indicating that Dr. Posnikoff would respond directly. The Complainant wrote back on September 8, 2021 advising that, having received no response to the July 30 email, she would be filing a complaint with the CVBC.

[19] In cross-examination by the Respondent, the Complainant acknowledged that she had not asked for a response to her email or an apology but disagreed that her subsequent email about making a complaint could be viewed as a threat. She agreed that she had not expressed regret for calling Dr. Posnikoff away from a sick foal or for calling two vets. She confirmed that all she wanted was a complaint on the Respondent's file.

[20] The Complainant filed her complaint with the College on September 11, 2021. She included her above email to the Respondent's office, and added the following:

-After discussing with my mom (as she was the one who paid her call out fee) Janice was repeatedly swearing and cursing, stating that this was bullshit, fucking ridiculous and when she first arrived on scene "oh isn't this fucking great" At no time did she ever ask if we needed help, she [severely] impacted my mental health and trying to cope with my horse.

[21] In her complaint letter, the Complainant also took issue with the Respondent's medical record of the incident, in which she stated that she had not confirmed the Primary Vet was a

veterinarian. This record was included in an invoice the Respondent later sent confirming her fee for attending. The Complainant observed that the Respondent's statement elsewhere in the record, which took issue with "people calling *multiple* vets," contradicted her statement that she did not know the Primary Vet was a veterinarian.

[22] The Complainant added:

Not only do the lines contradict but upon her arrival she barked, "Who the hell are you and what did you give that horse" ... To which [the Primary Vet] replied, "[I'm Name], the Vet?" Janice responded with "Well isn't that fucking great."

[23] The College Investigator first contacted the Complainant over a year after she filed the complaint, in a letter sent by email on November 24, 2022, seeking responses to a series of questions. The Investigator sent a further email on November 27, 2022, providing the Complainant with a copy of the Respondent's October 6, 2022 response to the complaint.

[24] The Respondent's response reads in part as follows:

Additional information at the time of incident not included in the record: At the time of the call, we had a foal in hospital that required 24 hour care. I called in an assistant to attend that foal so that I could attend the emergency. I also called in [an] assistant student who was attaining her clinical hours with us to help with the emergency, including radiographs if needed. All mobilized quickly and without question for the "broken leg call." Before leaving our hospital I confirmed with them that I was coming and they asked how long I would be. At no time did they reveal they had called multiple vets.

The mother that paid for the bill apologized to me for not letting me know that they had called another vet and did not call me when that vet arrived. She agreed the charges were valid. I do not interact with the owner only the mother from what I remember. We left quickly. I don't remember using the vulgar language [the Complainant] describes in her complaint. I remember the majority of the conversation occurring with her mother. As the mother paid our [charges] the person who identified herself as a vet was off in the distance working with the horse and owner. We left quickly. I did not witness the euthanasia when it happened.

[25] In a November 28, 2022 email, apparently in response to the Investigator's second email, the Complainant stated as follows:

I appreciate you reaching out to me, and I understand timelines and covid can cause fluctuations but it's been over a year since I've reached out about this originally back in September of 2021. At this point to not cause myself further harm or the people involved I don't want this brought up. Not to coin the phrase beating a dead horse but I really don't want to bring this up. It caused [me] significant harm at the time, and I don't want the parties involved having to bring it up either. I reached out to some of the parties who were present and even they say due to trauma blocking and it being over a year to have a clear recollection is hard and not anything that I want to bring up.

...
... Seeing as the college cannot get financial compensation or change anything on that, (not what I was wanting either way) all I wanted was the complaint on file against her.

[26] In a second email sent on November 30, 2022, the Complainant stated, “I don’t want to be involved at this point I actually feel it is unfair to both parties...a year and two/three months later, I guess it is what it is.”

[27] There followed an exchange of emails between the Investigator and the Complainant, after which the Complainant sent an email providing responses to the Investigator’s original questions and stating that she believed Dr. Posnikoff had not confirmed when she would attend, but that it was her mother and the Friend that dealt with her.

[28] In cross-examination, the Complainant confirmed that she had said she did not want to be involved and that some of those present had said time and trauma-blocking had affected their recollection, but she disagreed that her own recollection was affected.

3. The Mother

[29] The Complainant’s mother testified that it was a hot July day, and she was at the beach alone when she got a frantic call from her daughter about the incident with the Mare. She went there immediately and arrived to see the Mare standing and grazing, and the girls at the far end of the field with the farm proprietor, crying hysterically. They stopped her from approaching the Mare, and as she walked in their direction, she turned back to see the extent of the injury.

[30] As the Mother put it, she was “freaking out,” but the “mom” in her took over at that point, and she turned to the task of calming the girls down. The proprietor was giving them water and took them to the shade. The Mother went to meet the Primary Vet when she arrived, to advise where the Mare was, and fill her in on the situation. The Primary Vet went to talk to the girls and explain what was going to happen, that she would sedate the Mare, drop her safely to the ground, and put her down.

[31] The Mother stood back near the cars so as not to crowd the Primary Vet, and saw the Respondent’s red truck pulling in. (It is not clear whether the Mother was aware that a second vet had been called.) The Respondent had another girl with her. She appeared agitated and aggressive and said, “Oh, isn’t this fucking great.” The Mother believed the Primary Vet was by her truck at this point, and Dr. Posnikoff said, “Who the fuck are you?” The Primary Vet responded, “I am [Name], the vet,” and went toward the field. The Mother believed that Dr. Posnikoff and her companion had gone toward the fence.

[32] Perceiving Dr. Posnikoff’s presence as aggressive and angry, the Mother wanted her to leave, so she just said, “You need to leave, we will pay your callout fee.” Dr. Posnikoff

responded, “Oh yeah, you will.” She had a handheld machine in her truck. After the transaction went through, the Mother perceived that her “tune changed”, but the Mother told her to just leave because she wanted no conflict. She described the situation as “ridiculous.” She said the Respondent’s less than professional behaviour made a bad experience worse, while the Primary Vet was very calm and more respectful. She got the impression that Dr. Posnikoff felt that they had wasted her time.

[33] In cross-examination by the Respondent, the Mother said she did not know how far from the fence the Mare was. She agreed she had been freaked out when she first arrived, but that she had remained calm for her daughter and their friends. She disagreed that she had apologized to the Respondent and did not recall telling the Respondent the girls were young and had just made a mistake, or that the Respondent had said she “got” that.

[34] In her statement to the Investigator dated December 12, 2022, the Mother said Dr. Posnikoff’s companion stayed in the vehicle the whole time; Dr. Posnikoff walked toward the fence before the first remark she recalled her making, which was, “Who the hell are you?” to the Primary Vet, aggressively; and that as she walked back to the truck, she was “swearing or carrying on about how she had left a mother foaling back at her place and how fucking inconsiderate it was and why would you call out two vets.” The Mother said in her statement that she believed the Respondent had confronted one of the girls about who called her. The Mother also indicated she was offended by some comments the Respondent made about the girls’ ages.

4. The Friend

[35] In her testimony, the Friend confirmed that the day was very hot. After going to the beach, the three companions went to the boarding location to take the Friend’s two horses in from the pasture and turn the Complainant’s out. The Complainant’s horses were playing, but the Mare took a corner and slipped, hitting the ground. They heard an extremely loud cracking noise. The Friend was hoping she had cracked a sprinkler head. The Mare eventually flung herself up and the extent of the injury was immediately apparent.

[36] The Friend used her phone to call the Primary Vet but was unable to reach her after several tries. Her voicemail said if she did not respond, to call another emergency service. After about 10 or 15 minutes they had not heard back and decided to call the Respondent’s service. The office was closed, and the voicemail provided a number for Dr. Posnikoff. The Friend reached the Respondent and described the situation and its urgency in detail.

[37] The Friend said that Dr. Posnikoff cut her off to say she was busy doing something else; the Friend asked if she should call someone else; and the Respondent said to text her the address and owner information. Not knowing the address, the Friend searched it on Google and sent what she found.

[38] When she did not receive a text or call back, the Friend called Dr. Posnikoff again to see if she would be able to come. She sounded quite annoyed and said that she had been tied up with a foal and was trying to get out of the office and would try to be there in 30 minutes. The Friend said that she noted that was about the distance from the Respondent's office and concluded that she was on her way.

[39] After the failed attempt to halter the Mare, the Mother arrived, and the group awaited the veterinarian's attendance. While they were waiting, the Primary Vet called to say she was en route. This was about 30 minutes after the conversation with Dr. Posnikoff. The Friend said she figured they were both almost there, so "made the decision" to not call them off. She wanted both to be paid as they were en route in any event, and it was an accident of timing. She also understood that the Primary Vet had been off with a hand injury and did not have an assistant, and that the Mare might be difficult, so it might be better to have two veterinarians.

[40] The Friend thought that the Primary Vet arrived within two to five minutes of her call. They discussed a plan, and the Primary Vet and the Complainant then grabbed the Mare to begin giving her a sedation. That was when Dr. Posnikoff arrived on the scene.

[41] Dr. Posnikoff got out of her vehicle and came closer to the fence. The Primary Vet had by this time gotten the Mare to the ground and she and the Complainant were on the ground with her. Dr. Posnikoff was with her assistant, and said, "Who the hell is that with the horse?" the Primary Vet introduced herself.

[42] The Friend said that Dr. Posnikoff's demeanour then "blew up" and she immediately started using profanities and saying, "Who would call two vets?" and "What the hell" was going on; that it was a "no-no" to call two veterinarians. The Friend, recognizing that it was she who had made the call, went to explain the situation to Dr. Posnikoff. The Friend perceived that the Respondent was very angry. The Friend said she was sorry, that she was the one who called, and not to worry, that they would pay her for her time. She tried to explain the unfortunate timing, but Dr. Posnikoff would not listen and continued with "profanity," calling the Friend "missy;" saying that calling two vets was such a "huge no-no;" and that she had to leave a foal for this. The Friend described Dr. Posnikoff as "belligerent." The Friend was in the field at this point, with the Owner's other horse. The Respondent was just on the other side of the fence.

[43] The Mother pulled Dr. Posnikoff aside to talk to her separately and took her back towards her truck to get her away from the scene as she was disruptive and the Mare had not yet been put down. They were both speaking in high angry tones. As the Friend recalled, it took a while for the Mother to get the Respondent to take her money and go.

[44] The Friend described the experience of dealing with the incident, and calling a professional who belittled, lectured, and yelled at her, and made her feel guilty about leaving a

foal, when she was just trying to get a really good friend's beloved animal laid to rest in a humane way.

[45] In her statement to the Investigator, made in December 2022, the Friend described the interaction as follows:

When she got out of her truck, she walked over to the fence of the field saw [the Mare's] injury from a distance and made a very loud sarcastic comment saying, "oh that is bad." At this point [the Primary Vet] had only sedated [the Mare] so she was on the ground. Then Janice looked at [the Primary Vet] and said, "Who is this and what is she doing with that horse?!" [The Primary Vet] introduced herself to Janice explaining that she is [the Mare's] vet, and it was nice to finally meet Janice. Janice was incredibly, for lack of better word, bitchy. As my best friend sat on the ground sobbing, with her horse who was not even euthanized yet, Janice proceeded to yell at everyone. She asked who had called her, to which I explained that I was the one who spoke to her on the phone. She yelled at me from across the field, starting by calling me missy or something like that; regardless it was a belittling term she referred to me with. Probably because I was only 18 at the time, she figured she could talk to me with disrespect. She then told me that "calling two vets is a big no-no." I apologized and tried to explain the situation and the reason why we didn't cancel her callout. She cut me off immediately because she was too angry and wouldn't hear it. I then reassured her that she would 100% be paid for her work and she said, "YEAH YOU WILL!"

[46] In questioning by the Respondent on cross-examination, the Friend confirmed that she had not written down the events until the statement in December 2022, and that she and the group had talked about the incident afterward. She said she thought the Mare was six feet from the fence line and confirmed that the Complainant had remained there. She confirmed the limited supply of emergency equine vets in the area, and that the Primary Vet had a mixed equine and small animal practice. She confirmed that the Respondent had not refused to come, but said that she did not call back to confirm before the Friend called her a second time.

[47] The Friend differed with the Primary Vet's evidence, as set out below, that she had told her she would be 10-15 minutes. The Friend thought she was in the car on speakerphone on the way when she called, and she arrived not long after that.

5. The Primary Vet

[48] The Primary Vet has been a registrant of the College since 2001, and the Complainant has been her client for about seven years. On the incident date the Primary Vet was hosting a birthday party for her six-year-old son at a location in West Kelowna and missed the several calls and voicemails about the incident. Toward the end of the party, she checked voicemails and learned that the Mare had a broken leg. She called back the Friend, who described the situation

and confirmed they needed her to come as soon as possible, which she did. She was about 15 minutes away. She arrived to find those in attendance hysterical and upset about what was happening to the Mare. The Complainant was shaking and crying and holding the Mare, which was obviously in shock.

[49] The Primary Vet helped the girls to calm down and got the medications necessary to sedate and then euthanize the Mare. They needed to get her on the ground safely first. At that point, Dr. Posnikoff came quickly down the driveway in her vehicle and drove to the edge of the pasture where the Mare was on the ground. The Primary Vet was in the process of drawing up the euthanizing solution (“Euthanol”).

[50] Dr. Posnikoff asked, “Did you just give her something,” and the Primary Vet responded, “Yes, I just anesthetized her, and I am drawing up the Euthanol.” Dr. Posnikoff and the Mother started yelling at each other. Dr. Posnikoff was upset that two veterinarians had been called. The Mother apologized for not calling her back and said that the Primary Vet was here now, but they would pay Dr. Posnikoff for her time. Dr. Posnikoff responded, “Yah, you will, right now,” and they went to her vehicle.

[51] The Primary Vet said she tuned out the rest of the conversation. She recalled that Dr. Posnikoff had come into the field, and the horse was in mid-pasture. She proceeded to euthanize the Mare, and the Mother arrived back to console her daughter after paying the Respondent.

[52] The Investigator had contacted the Primary Vet as a witness, but she was reluctant to get involved. The Investigator encouraged her and took a verbal statement from her, which the Investigator wrote down, and had the Primary Vet review. The statement indicates that the Primary Vet thought the Respondent was yelling something about a messed-up address and added that the Mother had left her crying daughter to go with the Respondent to the truck and pay her bill.

[53] The Primary Vet testified that she has had the experience of being the second vet called to an emergency a couple of times, and when she arrived on those occasions to see the situation was in hand, she left. She said Dr. Posnikoff’s behaviour toward her seemed dismissive, angry, and not cordial. To the others present, the Primary Vet considered the Respondent’s behaviour to be “fairly inappropriate.” She could have exhibited more empathy and followed up with her own concerns at a later time.

[54] In response to Dr. Posnikoff’s questions on cross-examination, the Primary Vet agreed she had not identified herself as a veterinarian. The others present knew that she was, and she was in the process of drawing up the Euthanol, so she believed it was implied. The Mother had said, “Dr. [Name] is here, and we have it covered.” She agreed she was not in veterinarian clothes and she and Dr. Posnikoff had not met before. She was also unaware that Dr. Posnikoff

would be attending. She agreed that a call like this was stressful for the veterinarian. She later became aware later that Dr. Posnikoff was caring for a critically ill hypothyroid foal and agreed that being called out from that could be frustrating, but said it was “part of what happens on a daily basis.” She agreed that Dr. Posnikoff’s situation, with a referral centre and various staff, was more involved than her own practice. The Primary Vet confirmed that she had since referred another emergency to Dr. Posnikoff and found her very professional.

[55] The Primary Vet thought the group with the Mare was 50-70 feet from the fence line, not five, and agreed that Dr. Posnikoff would have to yell to communicate with them. When Dr. Posnikoff was speaking with the Mother, she heard some swearing but could not remember what words were used. When they when went to the vehicle, she tuned it out and carried on. She agreed she was pretty focused and also may not have seemed cordial. She perceived that Dr. Posnikoff was pretty angry. She agreed that if she was unaware that the Primary Vet was a veterinarian, she may have been alarmed by what she saw, in addition to experiencing her own anxiety from the nature of the call. She also agreed that the pool of available vets was limited, and that the practice of equine emergency medicine was highly stressful.

[56] The Primary Vet confirmed that if she had known Dr. Posnikoff was en route she would have suggested Dr. Posnikoff be called and told another vet had arrived, but it was understandable that those present did not do so. She agreed that there were many situations where a practitioner could get heated in the moment and say things, but it was part of the standard to be more professional than that, despite stressors. When asked if she thought the standard might become unattainable, she said she didn’t know, but agreed it was subjective.

6. The Student

[57] The Respondent’s practicum student at the time (the “Student”), stated in her testimony that she and the Respondent arrived, they could not find the driveway and had to ask a person for directions, which added to the stress of the situation. When the Respondent called her to accompany her, she did not seem angry but was pushing her to move quickly because of the urgency of the situation. She believed it was understandable that the Respondent was disappointed when they arrived and another vet was there.

[58] The Student described the situation with a critical care foal, in the Respondent’s charge, who was very sick when they got this call. The foal needed around the clock supervision and care.

[59] The Student estimated that the Mare was about 40-50 feet from the fence, and they were parked up by the gate. She could see a person beside the Mare giving it an injection. It was the first time she had ever seen a horse go down. At this point, the Respondent was in the vehicle doing paperwork and had told the Student to watch the procedure.

[60] The Student recalled that the owner's Mother was with them at the truck, and they were having a discussion. The Mother was very distraught; in a panicked state; and flustered. The Student did not recall if the Mother apologized. They were outside the truck, and she was inside with the windows shut. She thought the other vet seemed a little put off. The Student said the Respondent used no vulgarity or profanity and was only professional.

[61] In her statement to the Investigator on December 20, 2022, the Student said:

Most, if not all my practical hours were from emergency situations. I left myself on call. I live a minute down the road from Okanagan equine. The day of the incident, Dr. Posnikoff texted me at 5:21 PM. "Mare with a broken leg want to come?". I asked for 10 minutes she stressed we needed to go sooner. I rushed as fast as I could, I did drive over, parked, jumped in with Doctor Posnikoff's SUV, who was already rearing to go. We left in a hurry, we were in east Kelowna, and I cannot remember the address, but it was the far side of West Kelowna. She had it in her GPS already.

On the way I remember having a coaching conversation. She was getting me mentally prepared for the situation on hand. She explained that most likely we will have to put the patient down, she explained for this one to stand back as it will be a sensitive situation. She just wanted me to watch, she brought me mainly because it is a sad part of the job and if I am going to be in the industry, I needed to be a part of it.

[62] The Student said in her statement that when they arrived, there was a truck parked in front of the gate, and they parked on the grass to get close to the pasture. Dr. Posnikoff said they should not block the gate for an emergency. They got out of the vehicle and Dr. Posnikoff went to get her kit out of the back. The Student was hazy on the timeline and could not remember who approached them as they got out of the vehicle, or when they learned that another vet was present, but they did not get more than a few steps away from the truck. She remembered a lady coming up and saying they did not need them anymore. Dr. Posnikoff asked why she hadn't been called and the lady replied that she wanted to see who could get there first.

[63] The Student was surprised and Dr. Posnikoff told the lady she still had to charge for her services. She asked the Student to get her portable machine. While they did that the Student watched the group in the field. The Mare was still standing. She believed this was when the Respondent and the Primary Vet first talked. The other vet went to get her supplies, and they returned to the SUV and stayed there as Dr. Posnikoff wrote her notes. The Student watched the horse drop. The Student made a mental note when Dr. Posnikoff commented that the vet should not be kneeling in front of the horse where its legs could knock her down if it jerked.

[64] In cross-examination by College Counsel, the Student agreed that she wanted to help out the Respondent, she liked working with her, and she thought she was a good vet who taught her a lot. Although she would work with the Respondent again, she did not continue as a veterinary assistant because she could make more money in another field. She indicated she had not seen

her statement since she wrote it in 2022. She explained that the reason she asked for time to get ready to attend the incident was because she had a new baby at home.

[65] The Student agreed that the Respondent had made some “critical” comments about where to stand in relation to the Mare and blocking the entrance, but those occurred in the truck. She agreed that they had been at the scene for maybe a total of 20 minutes.

[66] The Student did not consider it unprofessional for the Respondent to complain about being the second vet called to the incident, although the situation was stressful with a horse being put down and the people involved were very upset. She agreed a certain level of sensitivity is required for that. She disagreed that the Respondent was upset and would have described her as disappointed. She was not able to recall all of what was said and was unable to hear while she was in the truck. The windows were up, and the air conditioning was on.

[67] The Student believed the Respondent was writing her notes of the incident while they sat in the truck. She also believed they watched the Mare go down while they were in the truck after the Respondent had been paid. It was pointed out to her that her statement differed from that, and she said she remembered the Primary Vet putting the Mare down because it was the first time she saw that happen. She corrected herself to say the Mare went down, then the Mother came over to pay, and the Respondent told her to watch while she dealt with the paperwork. They finished that, were still in the car, and the horse had not yet been put down. The Respondent explained what was happening as the Primary Vet did the injection.

[68] The Student thought she may have had the clearest recollection of the events as she was the least involved, although she was in the truck for part of it. She agreed with the suggestion that the foal was not critically ill on the incident date.

[69] In re-examination, the Student agreed that the Respondent used a clipboard to make notes before entering them in her computer, and she did not know when the Respondent had made the notes pertaining to this incident. The Student did not use the computer system. The foal often had pneumonia and diarrhea and that could happen in a heartbeat, and she conceded that she would not have known whether the foal was critically ill at the time of the incident. She estimated that she had completed about 120 hours of her practicum in a two- or three-week period, mostly consisting of emergency callouts.

7. The Trainer

[70] A professional rider and horse trainer who manages a facility with 30 horses (the “Trainer”) testified about her own skills in managing people and horses. She trained people to help them understand what it is like to work with veterinarians. She worked in the horse culture in the Okanagan to assist owners to understand that the supply of equine vets was very limited and they should be treated with respect. The Trainer and the Respondent had a close working

relationship, and the Trainer frequently called the Respondent out for emergencies. She found the Respondent very responsive. She gave several examples of times when the Respondent had assisted with the Trainer's or other people's horses in emergencies.

[71] In relation to being called out to an emergency where another vet was already present, the Trainer said she understood the need to call more than one vet in a dire situation, but it was common courtesy to call off the second one. She would not appreciate someone calling the Respondent away from her own foal and failing to call her off, in similar circumstances. She considered the behaviour of the owner in those circumstances to be unprofessional and unacceptable. She said she trained people to channel their vet calls through her, so their emotions did not overcome them.

[72] The Trainer had not seen a client get upset with the Respondent in an emergency situation, although emotions did run high in those situations. She had never seen the Respondent get upset and use vulgar language. She was always professional. The Trainer would choose the Respondent to attend in an emergency like the incident here.

[73] In cross-examination the Trainer agreed she was not a vet, was providing anecdotal examples of her experiences with the Respondent, was not familiar with the CVBC standards, and was speaking from her own perspective.

8. Dr. Posnikoff

[74] The Respondent testified that the incident commenced with a call from the Friend, who did not identify herself. She described the broken leg, and she was frantic. Dr. Posnikoff said she got stressed and knew she had to go whether or not the owner was a client. She asked the caller to text her the location.

[75] Dr. Posnikoff explained that at the time of the incident she had been in the Okanagan less than six months, and was completely dependent on her maps app. The call came on a Saturday at 5 p.m. when Dr. Posnikoff had just started her shift with the foal, who was always critical or at risk. She called the employee who had finished her shift at 5 p.m. to come back for the broken leg emergency. While that person returned, Dr. Posnikoff called the Student to see if she could attend, in case she needed her assistance.

[76] At that time, the Respondent was running a hospital with four veterinarians, and she had taken the majority of the emergency callout responsibility. She was on callout that evening, and there were arrangements so she could leave in the event of an emergency, such as calling back the other employee.

[77] Dr. Posnikoff said that she and the Student left within 5-10 minutes, and arrived at 6:10 or 6:20 p.m. She was not familiar with the location and the address they were sent to was wrong. They had to ask a neighbour where the correct property was.

[78] As they pulled into the driveway, she could see people off in the distance in a field. She did not remember another horse being there and could not remember saying anything like what the witnesses were saying about profanity. She accepted that she had to yell that she was there and couldn't find the place.

[79] Dr. Posnikoff thought that as she was driving in, she saw someone giving the horse an IV injection, and when she arrived on scene she may have asked what was going on or what they were doing. Her experience was that sometimes owners feel it may be helpful to do something wrong like give the horse a shot, when it is not. She agreed that she may have said, "Who are you?" because the Primary Vet did not look like a vet and there was no obvious vet vehicle there.

[80] Dr. Posnikoff thought the Mother came up and said that the Primary Vet was their regular vet and was taking care of things. Dr. Posnikoff was shocked, alarmed, and surprised, and after a minute, said, "this is wrong." She was thinking she had gone through a lot to get to this emergency. She commented, in her evidence, that a horse vet should be able to handle this kind of situation and said she would get to that later.

[81] She agreed that the person she talked to said sorry, they would pay, and she said, "Yeah you will." Dr. Posnikoff believed that the Complainant should not have been able to hear her and noted that it was not clear from the evidence where the Mare was in relation to the fence line. She said it seemed far off to her and that she had no contact with the Complainant, other than to yell at the outset to find out what the situation was.

[82] Dr. Posnikoff recalled the Mother saying the girls were young and did not know better, and the Respondent said she would get the invoice. The Mother left and then came back to pay the bill, which is when Dr. Posnikoff made her notes.

[83] She stayed to let the Student witness the procedure and did express her opinion that it is dangerous to be in front of a horse if it is only sedated. She explained that she did not say that to the Primary Vet, and she was not being critical, just using an opportunity to teach.

[84] When she received the Complainant's email that she was upset, Dr. Posnikoff was very busy and did not get to providing a response. She considered the later letter about reporting the incident to the CVBC as a threat and took it as an indication that she needed to disengage with the Complainant, noting that she was not a client.

[85] Dr. Posnikoff regretted taking an emergency for someone she did not know, but she rarely turns down a request, because of her ethics. This was a broken leg, and she dropped

everything, left a sick foal she probably shouldn't have. The people present were all very emotional, she kept a distance, but it "sucked" that there was another vet there and she had to pull the Student away from her newborn baby.

[86] The Respondent commented that if the College says conduct such as hers justified a complaint it would be the demise of equine vets. She completely denied using profanity, vulgarity, displaying anger or having a temper tantrum in the truck. She suggested that every one of the witnesses had a bias due to the trauma bond they had experienced, and it coloured their perception of a vet that was not their vet. She noted the growing tendency among clients to become angry with vets and threaten to complain. They want the vet to pay if they feel they have been slighted. She noted that the Complainant had stated that she wanted a complaint on the Respondent's file, and that at no point did the Complainant ask for an apology.

[87] Dr. Posnikoff said she did not respond to the Complainant's letter because she would have wanted to ask if she knew what it takes to call her out for a broken leg; that she cared enough to drop everything and bring a fully stocked truck and good people; and she had to leave a sick horse behind. She believed the Complainant had heard from her friends afterwards about what was said and noted that none have a clear picture at this point. The Respondent was the only one who wrote notes immediately.

[88] The Respondent was flabbergasted to be told a year later that there was an investigation. She could not understand how it could be malpractice when she had not touched the Mare, and felt she was being villainized and demonized. The statements that were filed at that time said she was cussing and had a horrible attitude. They were not able to see her side at all or empathize with a person who had been working a lot, as the go-to person for emergencies. She had been trained by a well-respected mentor in the LA Basin and Orange County. He had taught her amazing ethics, to "just do it."

[89] Dr. Posnikoff regretted taking the call and showing up. Because of this, she was being treated with a lack of respect, even though it is wrong to call two vets, and not to advise her, when they knew two vets would arrive. She said if they had told her that, and asked her to come help, she would have had the opportunity to say, "in a heartbeat," because hers was the emergency practice with the higher technology, and an assistant.

[90] The Respondent observed that the Mother accepted her condolences after she paid the bill. The Mother had softened, and it looked all right for her to leave at that point. The Primary Vet did not ask for help, and the understanding was that she was not needed, so it was inappropriate and awkward for her to remain.

[91] In cross-examination, the Respondent admitted that she was familiar with the Bylaws contained in the Citation, and that in her view she had met those obligations during these

interactions. She agreed that putting down a horse was traumatic for the owners, that veterinarians had more experience with that, and that sensitivity was required.

[92] Dr. Posnikoff denied that she had written her notes because of a concern about repercussions from the incident. She said it was her practice because she had come from a system where clients were prone to sue their practitioners and this was a highly charged situation. She agreed that she had described the attendees as “disgruntled and distressed” in one of her statements to the College but disagreed that she had made notes with the knowledge that she would need them to defend herself. When she left, it felt like the Mother was fine, and there was no problem. She disagreed that voices had been raised during the interaction, other than when she announced her presence in a loud voice. The Mother came over and they talked by the truck. She denied using profanity or vulgarity. She raised her voice because she was “a veterinarian showing up for an emergency.” She said she could not remember if she was upset, now, four years later. She could not confirm that under oath and had not included it in her notes.

[93] The Respondent confirmed that when she arrived, the Mare was up, and she saw a person give it an IV. She did not write that down and acknowledged it conflicted with her notes, and others’ accounts, that the horse was down. The important point, as far as she was concerned, was that the Mare was down when she left.

[94] Dr. Posnikoff had put in her notes that she did not confirm that the Primary Vet was a vet. The Primary Vet was introduced to her by her first name. The parties said the Primary Vet “would be taking care of things,” and the Respondent wanted to document that. There were no indications that she was a vet. Dr. Posnikoff was concerned that the owners may have been giving something to the Mare and noted that they had considered shooting it. It was not until the Mother came over and started apologizing that she understood the person attending the Mare was a vet.

[95] In her notes, the Respondent had said that she “informed the people that calling multiple vets and confirming me without letting me [know] another person was attending the horse was bad.” In referring to the “people”, the Respondent said she wanted them all to hear and understand, but that this is four years later, and her recollection is that the Mother came over, so she may have said that to the group, to her, or just close to the fence line. She did not remember how she said it, whether it was loud and yelling to reach the women by the horse, or just to the Mother, to let her to know it was wrong. Dr. Posnikoff acknowledged that she told them that calling two vets was bad, despite the circumstances.

[96] It was suggested to the Respondent that she could have communicated that sentiment later, and she disagreed. She acknowledged she had sent an invoice after the fact and had the Complainant’s email address but disagreed she could have waited to convey her concerns. She felt it was appropriate in the moment, given that they were not her clients, she might not see

them again, and she felt at that moment that was what needed to happen. Sending an email was not, to her, actually delivering the information.

[97] When pressed, Dr. Posnikoff said it was not possible for her to send a later email or answer the Complainant's email, because it was "mentally" impossible for her; she was barely holding on right now; it was "not easy to see a horse with a broken leg... to hang on and take care of every person around you or run a staff." She was barely able to read emails, and it was impossible for her to look at the Complainant's emails and know that this person was angry at her for showing up. She said she was equally "incapable" of sending an email answer to the Complainant's complaint letter. She could not read that email, let alone send a follow up email or write an apology, without telling the Complainant about all the prep it had taken to get there and how they flippantly thought it was okay, without a clue what it is like to get a call like that, as it is for her now, to be an emergency vet 24/7, with staff waiting outside, and the demands of a busy practice. She said it was therefore "mentally impossible" for her to postpone her reaction at the incident; she had to finish the interaction and move on, which was the only way to cope sometimes.

[98] College Counsel showed the Respondent a post she had made on Facebook pertaining to the incident, in which she stated, "I might be way off base. I might have been everything they described in the argument. I really hope not because the picture they painted of me was pretty bad. I really hope I'm not that person." She agreed that the Complainant had been a prior client of OEVS but said she did not think of her as a client at the time of the incident.

E. Submissions

[99] The parties provided written and oral submissions on liability on the third day of the hearing. Those are summarized here.

1. College

[100] In addition to reviewing the legal framework within which this case arises, the College relies on a prior CVBC discipline panel decision which adopts as a definition for "professional misconduct," a "marked departure from the standard expected of a competent [registrant]".¹ The College submits that the standard does not require a finding of "moral turpitude" or that the conduct at issue was flagrant, dishonourable, or discreditable, in order to establish professional misconduct or conduct unbecoming a registrant.²

¹ *Re Dr. Javaid Chaudhry*, CVBC File 20-105(b) (August 28, 2024) at para. 24 (Book of Authorities, Tab 8)

² *Salway v. Association of Professional Engineers and Geoscientists of British Columbia*, 2010 BCCA 94 at para. 32; *Luk v. Law Society of Manitoba*, 2011 MBCA 78 at paras. 15-23; *Hsje v. Law Society of Saskatchewan*, 2015 SKCA 2 at paras. 58-65 (Book of Authorities, Tabs 13, 11, and 10)

[101] The College submits that a panel within a professional organization that sets the professional standards for that organization has a wide discretion to determine what constitutes professional misconduct or conduct unbecoming³ and whether the Respondent's conduct met the standards expected of and required of registrants.

[102] In asserting that the Respondent's conduct demonstrates non-compliance with the various Bylaw provisions specified in the Citation, the College submits as follows:

20. These Bylaws, which define the ethical standards all registrants must follow, are an important part of CVBC's public interest mandate.
21. The BC Court of Appeal has confirmed that the "public interest" to be advanced and protected by professional regulators extends to the maintenance of high ethical standards and professionalism.⁴
22. As stated by another Court, protective professional regulatory regimes are in place to maintain high standards of ethical conduct, competence and professionalism which is required to protect the public against unsafe and unethical professional services.⁵
23. The Respondent's conduct, in the present case, must be viewed in the context of this Panel's duties to the public.
24. As per *Salway*, this Panel has broad latitude to determine the proper interpretation of the above noted Bylaws is assessing what conduct constitutes breaches of them. The CVBC is not aware of any prior decisions which interpret or apply the above-noted Bylaws.

[103] The College suggests that cases from other professions are of limited assistance in determining where conduct lies in relation to expected standards, but relies on a case in which a court upheld a disciplinary body's determination that a physician was liable of conduct unbecoming when he engaged another parent in "loud, verbally aggressive, and egregiously profane outburst, while in a state of rage, at a school concert".⁶

³ *Salway* at para. 32 (Book of Authorities, Tab 13)

⁴ *Sobeys West Inc. v. College of Pharmacists of British Columbia*, 2016 BCCA 41 at para. 56, leave to SCC denied (Book of Authorities, Tab 14)

⁵ *College of Traditional Chinese Medicine Practitioners and Acupuncturists of British Columbia v. Chik*, 2019 BCSC 1135 at para. 39 (Book of Authorities, Tab 7)

⁶ *Rathe v. College of Physicians and Surgeons of Ontario*, 2013 ONSC 821 at paras. 21, 24, and 37 (Book of Authorities, Tab 12)

[104] As pointed out by the College, the conduct in *Rathe* occurred “off duty” and outside the physician’s professional capacity, so no patient was directly affected. However, the court upheld the disciplinary body’s decision to sanction the physician for this behaviour, highlighting the primary school setting with children present; the profane and demeaning language used; and the physician’s aggressive manner, as described by witnesses. The court made a finding that “[a]s a family physician, he had a responsibility to control his anger so as not to subject members of the public to verbal abuse.”

[105] The College’s position is that regulators generally hold professionals to a higher standard of conduct in their dealings in their professional capacity than for their off duty conduct and that demeanour and language can warrant sanction in professional circumstances.

[106] The College also referred to case involving an engineer who wrote a letter to an elected official challenging their competence, in which a discipline panel applied a benchmark set out in the relevant association’s code of ethics requiring that the engineer conduct his exchange with “fairness, courtesy and good faith”.⁷

[107] In relation to credibility and reliability, the College quotes the following passage from *Bradshaw v. Stenner*⁸:

[186] Credibility involves an assessment of the trustworthiness of a witness’ testimony based upon the veracity or sincerity of a witness and the accuracy of the evidence that the witness provides The art of assessment involves examination of various factors such as the ability and opportunity to observe events, the firmness of his memory, the ability to resist the influence of interest to modify his recollection, whether the witness’ evidence harmonizes with independent evidence that has been accepted, whether the witness changes his testimony during direct and cross-examination, whether the witness’ testimony seems unreasonable, impossible, or unlikely, whether a witness has a motive to lie, and the demeanour of a witness generally Ultimately, the validity of the evidence depends on whether the evidence is consistent with the probabilities affecting the case as a whole and shown to be in existence at the time

⁷ *Association of Professional Engineers and Geoscientists of British Columbia re: Stromotich*, July 3, 2007 at para. 59 (Book of Authorities, Tab 3)

⁸ 2010 BCSC 1398, aff’d 2012 BCCA 296 (Book of Authorities, Tab 4)

[187] It has been suggested that a methodology to adopt is to first consider the testimony of a witness on a ‘stand alone’ basis, followed by an analysis of whether the witness’ story is inherently believable. Then, if the witness testimony has survived relatively intact, the testimony should be evaluated based upon the consistency with other witnesses and with documentary evidence. The testimony of non-party, disinterested witnesses may provide a reliable yardstick for comparison. Finally, the court should determine which version of events is the most consistent with the “preponderance of probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions” ...

[Citations omitted.]

2. Respondent

[108] The Respondent points out that she responded promptly and professionally to the call for her to attend the tragedy, rallying a team and a fully stocked mobile unit, as expected of an emergency equine veterinarian. She says she managed her own panic and got to the scene despite having erroneous directions and being unfamiliar with the area. She absorbed the Friend’s energy, in her phone calls. She consoled the Mother at her truck, which she says the Mother minimized in her evidence.

[109] She submits that the witnesses at the scene are focussing on the negative based on their level of trauma and that the Respondent was attending as an unknown veterinarian, when the Complainant’s own vet was already there, which was not known to the Respondent. She submits that the witnesses’ evidence changed over time after they discussed it, and none of them had made timely notes of the event.

[110] The Respondent says she realized the need to leave quickly in the circumstances and took steps to do so. She said she took contemporaneous notes, and that others did not. She pointed out that her comments were addressed primarily to the Mother, and that it was unclear from the evidence what exactly any of the witnesses heard her say including the use of profanity.

[111] The Respondent referred to some studies pertaining to a crisis in equine veterinary medicine arising from extreme stress levels, shortages, and a growing propensity of clients to complain. The Panel permitted some latitude in relation to publicly available resources regarding these challenges and education as to recommended client responses in cases of emergency, such as leaving entryways clear. Dr. Posnikoff submitted that the level of expectation in this incident was intertwined with the crisis, both in terms of the tragedy, and the current cultural climate relating to equine veterinarian-client relations.

[112] To explain that climate, the Respondent pointed to a rising suicide rate among, in particular, emergency equine veterinarians, who operate under significant stress and in circumstances where clients are clearly not at their best, and where the prevalence of complaints

was on the rise. When the fact that the Respondent was told she was not needed when she arrived is added to that background, she submits that to hold a veterinarian to the suggested standard is too high. To say something about the unreasonableness of calling out two veterinarians, in the circumstances, was not unreasonable, and that to hold her to a standard requiring her to say nothing about that in the moment would be unattainable, when all of the circumstances are considered.

3. College Reply

[113] The College took the position that it was not the fact of saying something, but how it was said, that they relied upon as unprofessional. Counsel also submitted that the Respondent's challenge to the witnesses' behaviour demonstrated a willingness to attack them in retaliation for the complaint, rather than acknowledge her own shortcomings.

4. Respondent Reply

[114] The Respondent was extended the courtesy of a reply in light of her lack of legal representation. Her final points were that the breadth of the Bylaws were concerning if they led to use of after-the-fact statements from witnesses who were traumatized, which from her perspective appeared to be an attempt to demonize her by portraying her as an uncaring, discompassionate person. She submitted that the case came down to perspectives and opinions, and no other proof. She also submitted that it would not be in the profession's best interests to set a dangerous precedent based upon such a complex and unique set of circumstances, with dated, unreliable witness statements that could not be properly viewed in context, which included the publicly-expressed views on the matter of equine vets' strained availability and capacity.

F. Analysis

1. Distillation of the Facts

[115] The Panel agrees with both parties' submission that the resolution of the facts in this matter depends to a large extent upon an assessment of credibility and reliability of the witnesses. Accordingly, the first part of the analysis will consist of the Panel's distillation of the facts, having regard to the applicable principles as set out in *Bradshaw v. Stenner*⁹.

[116] As appears to be accepted by both the College and the Respondent, the significant trauma of the occasion and the considerable passage of time are primary factors in assessing the reliability of the recollections of the witnesses who were present for the incident. The Respondent validly submits that their evidence should be tested against their earliest recorded statements, the timing of those, their states of mind, and the evidence of the others.

⁹ Above, para. 107, and footnote 8

[117] In this respect, apart from the Respondent's notes, the Complainant made the timeliest statement, in her email to OEVS within a week of the incident, on July 30, 2021. We here note that the event was likely the most severely traumatizing to her, as owner of the Mare.

[118] We observe that the Complainant's first statement did not include any reference to the words, "Isn't that fucking great?" which the Complainant included in her email to the College in November 2022. In the earlier statement, the only words she attributed to the Respondent were, "YAH YOU WILL," in response to the offer to pay her. When the sentence with the expletive was included in the Complainant's statement to the Investigator, it was preceded by the words, "After speaking with my mother..." The Complainant admitted in her testimony that she had gained a "whole recollection" after speaking with all of the others present. Notably, in her testimony under cross-examination the Complainant adopted her mother's phrase "a mare in foal" rather than "a foal," as she had stated in her original statement.

[119] As submitted by the Respondent, one conclusion for the differences in the Complainant's statements, as time passed, is that the Complainant adopted her mother's version of the incident, or perhaps even her memory of it, as sometimes happens in cases of severe trauma and/or the effluxion of time. It is a frequent observation of lawyers who cross-examine witnesses that "memories generally don't improve with time," which is generally followed by submissions that, all else being equal, the earliest statements are often the most reliable. In terms of proof arising from the evidence in this matter, in any event, the Panel is not able to conclude that the Complainant actually heard the phrase with the expletives, or any profanity, herself.

[120] We will also observe that, whether or not the Complainant herself actually heard an expletive in that first approach (the logic of which will be considered below), her own use of profanity within her testimony might suggest a willingness to introduce it into her narrative, particular when considered with the evidence of collaboration and how the other witnesses' evidence also changed with the passage of time.

[121] We do not mean to suggest that the Complainant is being other than genuine in attempting to recall the interaction, the language and the sequence of events. It is clear that whatever was said, she found the Respondent's demeanour upsetting. We note only that there is a difference between veracity and capacity to recall. This is a case that clearly has challenges in the latter category, without any suggestion of mendacity on the part of any of those present.

[122] The three adults were under somewhat less stress and arguably better able to recall what occurred. Turning to the Mother's evidence, the first record she made of the incident was her statement to the Investigator in December 2022. She said the Respondent came towards the fence and said aggressively, "Who the hell are you?" to the Primary Vet. She described her as swearing about leaving a mother in foal, and "how fucking inconsiderate it was" to call two vets." The

Mother believed the Respondent had confronted one of the girls about who had called her and made offensive comments about the girls' ages.

[123] In her testimony, the Mother stated that she had stood back near the cars, and the first remark she attributed to the Respondent on arrival was, "Oh, isn't this fucking great," and only after that, to the Primary Vet who was at her truck, "Who the *fuck* are you?"

[124] It appears that the Mother was not aware that the Respondent had been called to the incident, and unclear on which of the girls was confronted by the Respondent in that respect. She was admittedly also deeply affected by the extent of the Mare's injury and the level of the girls' distress, and had gone into "mother mode". We note as well that she had removed herself from proximity to her daughter and the Mare before the Primary Vet arrived, and took over payment of the Respondent at the truck. It therefore seems unlikely that the Mother was in a position to assess what portion of the interaction the Complainant was able to hear.

[125] Notably, in her evidence, the Mother changed the order of the wording and the words that were used from her initial statement, where she did not report that the Respondent used the word, "fuck" in addressing the Primary Vet. This not only also supports a conclusion that the Complainant's evidence was affected by her Mother's description of her interaction with the Respondent, but that both demonstrated a willingness to import or enhance the degree of profanity, through collaboration or over time.

[126] The Friend also did not attribute any expletives to the Respondent in her statement to the Investigator. In that, her version amounts to the Respondent having arrived at the scene, asked who the Primary Vet was, what she was doing to the horse, and who had called the Respondent. In her testimony the Friend said that the Respondent, "blew up," used profanity, and was belligerent, but beyond "hell," she did not provide any specific expletives.

[127] We note that in her statement to the Investigator, the Friend related the Respondent's "sarcastic remark," of, "Oh, that's bad," as her first comment. We will observe that it is not clear to the Panel how that remark could be considered sarcastic, in the situation; particularly if it was the first thing that was said, because the situation was, in fact, very bad. We note as well that this characterization of the remark echoes the Complainant's statement, in which she said she heard the Respondent "*snidely* remark, 'Ya, that's bad'," but after the conversation about payment.

[128] The Primary Vet believed only that she heard profanity between the Respondent and the Mother but could not say what was said. Her concern appeared to centre on the fact that the Mother had to leave her daughter with the Mare in order to go to the truck and pay the Respondent. She was focused on the Mare, understandably; reluctant to get involved; and notably, she perceived the initial part of the conversation about calling two vets to have been between the Mother and the Respondent. The first remark she attributed to the Respondent was

“Who are you and what did you give that horse?” She described the Respondent as dismissive and not cordial with her.

[129] In considering the College’s witnesses, therefore, we agree with the Respondent’s position that it is important to compare their professed current recollection of the events with what they said in their earliest statements, and that it is important to consider how and when those early statements were collected. The evidence must be weighed against the other evidence, and within a framework of logic in order to determine what *probably* happened, which is the standard we must apply, bearing in mind the onus on the College to establish professional misconduct, conduct unbecoming, or a Bylaw breach. We have therefore spent some time here in reviewing the College’s witnesses’ evidence in an attempt to arrive at what we call a distillation of the facts.

[130] Considering the question of the Respondent’s language and demeanour, as a matter of logic, it does not seem reasonable to us that the phrase ultimately attributed to her by all three of the lay witnesses, “Isn’t this fucking great?” would have been uttered as the Respondent got out of the car. There would have been nothing for her to react to before she was informed that the matter was being dealt with by another veterinarian. It seems that would have happened, at the earliest, when someone identified the Primary Vet, and most likely after the Respondent had asked something to the effect of, “Who is this and what is she doing to that horse?” It appears inarguable that the Respondent was not aware that a second vet was present and did not know who the Primary Vet was, when she said that.

[131] In this respect, the Friend’s testimony seems a more reliable sequence of events, and that something like, “Who is this?” and “What is going on?” were more probably among the first things said by the Respondent. That is also consistent with the Primary Vet’s evidence.

[132] The Panel therefore finds it improbable that the Respondent uttered the expletive that is now attributed to her by some of the witnesses, as she got out of her vehicle. The Respondent admittedly arrived in a state of frustration and anxiety, derived from her considerable effort to get there and find the farm and the stress of an emergency call of this kind, compounded by the error in directions. It seems likely that she was portraying frustration and anxiety at that point. With that demeanour, it also seems likely that any loud comments made by the Respondent on her arrival may have appeared to be a display of anger. She likely called out as she left her vehicle, and something about the directions being wrong. This is supported by the Primary Vet’s recollection of her mentioning the wrong address.

[133] It seems likely that the Mare was being dropped from a standing position at about that time, and that in a reaction to that, the Respondent asked, assertively, who it was that was with the horse, and what she had given her. The Respondent’s articulated concerns about owners taking matters into their own hands support her being alarmed by what she saw.

[134] We also conclude that, at that time, the Respondent still believed that she was attending as the only veterinarian, and entered, as she said, essentially as “a veterinarian showing up for an emergency”, perhaps with an aura of authority that could have come across as brusque, given the state of mind and knowledge base of the others present, who believed that their own vet was already in charge, and some of whom did not know a second vet had been called. We accept the Respondent’s suggestion that their initial impression could have coloured their perception of the events and the language that was used.

[135] As to what happened next, it seems reasonable to assume that someone said something to the effect that the owner’s vet was here and the Respondent’s services were not required. It also seems likely that, in response to that, the Respondent spoke in frustration, and perhaps anger, against the backdrop of the considerable effort and anxiety she had expended to answer a plaintive call to a dire emergency.

[136] Whether expletives entered into the conversation, and if so, when, we are unable to determine. The Panel observes that it is also important not to rely on the witnesses’ qualitative statements in this respect, which we agree were borne of impressions and in some cases, collaboration and hindsight. Accordingly, we believe it important to look for definitive evidence of the words that were actually used.

[137] We observe that there is no reliable “first impression” statement from any witness as to the exact language. It is clear that over time, as pointed out by the Respondent, the statements were spiced with expletives. Perhaps there was an expletive in connection with the two-vets exchange; however, it is not contained in the Complainant’s initial complaint, and we do not consider that the College has proven it. Put another way, based on the College witnesses’ evidence we are unable to reject the Respondent’s denial of profanity.

[138] We note the Respondent’s own doubt, as expressed in her Facebook post, as to what she said. She was candid in her testimony that she did not precisely recall the incident or what was said, and when. In her post, she expressed the hope that she had not spoken that way and was not that kind of person. It is our view that her doubt, or possible acceptance that she used profanity, cannot afford proof of the tangible fact that it was used, where no other reliable proof appears to have been offered.

[139] Likely the Respondent displayed obvious frustration in response to being told another vet was present and she was not required. Her frustration probably manifested as anger. Most certainly, by all accounts, there were comments about calling two vets being a no-no; the unreasonableness of failing to inform the Respondent she did not need to come; and her frustration at having to leave a failing foal.

[140] The Respondent makes the point that she believed, or recalled, that she interacted only with the Mother. We find it likely that the first part of the exchange about calling two vets was with the Friend, who took ownership of the decision and tried to explain it. We consider it just as likely that the Mother intervened very shortly after that, to “head off” the Respondent and make sure she got paid. Whoever assured her they would pay her, the Respondent clearly and admittedly answered, “Yeah, you will.” Indeed, it appears to be this aspect of her behaviour that was most concerning to her colleague in the profession.

[141] In considering that, we note that the Respondent indicated a desire to get out of the way and leave quickly, and the transaction occurred at the truck within a few minutes. The Mother appeared to take over the conversation about payment, without a suggestion or request that perhaps it could occur at a later occasion. The Friend testified that she wanted the Respondent to get paid, and that was part of the reason for not calling her to tell her not to come. There is nothing in the evidence, therefore, suggesting that taking payment, or responding affirmatively to the suggestion, was itself inappropriate or unprofessional, except perhaps the abruptness of her response. We note the Friend’s evidence that the Respondent would not listen further to her explanations. The Respondent candidly admitted that she said, “Yeah you will,” in response to the Friend’s offer to pay her on the spot.

[142] On the whole, we found the Respondent’s evidence candid and genuine. She fully admitted that she did not recall much of the incident, and for that reason we have looked mainly to the College witnesses in assessing what probably occurred, but the distillation we have arrived at for the most part accepts what the Respondent has said in her testimony.

[143] While we acknowledge the points made by the College about some inconsistencies between the Respondent’s evidence and her notes, we do not believe that these detract significantly from her apparent candor. The fact that she saw a need to leave quickly is not particularly inconsistent with the fact that she remained at the scene to make notes and instruct the Student as she witnessed the euthanasia. Her statement in the medical record that she was “not present” for the euthanasia is consistent, in our view, with her not being present “as a vet,” having withdrawn, or been dismissed, at that point.

[144] By the same token, the Respondent’s use in her record of the term “people” in relation to the two-vets statement does not to us convey, or establish, that she necessarily or intentionally yelled out to the whole group about that. She probably made it clear, however, while she was outside the truck (and therefore not heard by the Student), that she did not approve of the process they, or the Friend, had followed. While the Respondent may not have intended to convey that disapproval to anyone other than the Friend and the Mother, given the timing, locations, and likely distances, her displeasure was probably evident to the group. The interaction between the Respondent and the Friend, and then the Mother, reportedly came across to those in the field as an angry exchange, whether or not they heard the words that were spoken.

[145] Finally, we note the College's concerns with inconsistency in the Respondent's record about whether she confirmed that the Primary Vet was a vet, and again we consider the statement that she did not do so as in the nature of a medical or official record of the interchange, rather than the Respondent's state of mind. Clearly, whether or not she took the Primary Vet's credentials, she was dismissed essentially on arrival due to the presence of a person identified as the owner's vet.

[146] While the Respondent's evidence regarding the challenges that are experienced by equine veterinarians, the high suicide rate, and her passionate views about the need for self-advocacy are mostly relevant to post-liability factors such as sanctions, we consider that they may serve to inform the Panel as to the Respondent's frame of mind at the time of the incident. A prior knowledge of problems in the profession, a greater need for public attention to the issues, and the loss of equine veterinarians clearly coloured her perception of the events. We will comment further on the effect of that in due course.

[147] What we have distilled, in terms of established conduct, is that the Respondent displayed visible anger about having been called out unnecessarily to the incident, rebuked the Friend for not calling her back when the Primary Vet arrived, and complained about having to leave the ailing foal. While directing her remarks to the Friend and the Mother, her demeanour and displeasure were apparent to others present, including the Complainant and the Primary Vet.

[148] It remains to consider how what we have arrived at as the most likely, or probable set of circumstances lines up against conduct that the public is entitled to expect of an equine veterinarian, and whether, if it falls short of that standard, it does so to an extent that amounts to professional liability under the Act or Bylaws.

2. Application of the Facts to the Law

[149] We note that the Respondent expressed initial surprise that a discipline complaint could relate to something other than incompetence or malpractice, and that it could relate to an incident where she did not in fact interact with an animal. We consider it important that the Respondent and the wider profession be aware that there are standards pertaining to interactions with the public beyond the treatment of animals which demand a certain decorum and respect. We also accept the Respondent's message that there may be a need for greater understanding on the part of owners of the challenges experienced by veterinary practitioners. We hasten to point out however that it is not the conduct of the owners and the witnesses that are at issue in this matter, and even if she felt provoked, the Respondent should not have prioritized her frustrations, particularly at such a traumatic time.

[150] In considering the respective roles of the veterinarians, we observe that the Respondent was the older, more experienced practitioner at the scene and likely had more experience with

euthanasia of horses. She and the Trainer both indicated that as an equine specialist, she would have been the most prepared to deal with this situation.

[151] We also observe that while the effort of getting to the location created some stress, the travel time should have afforded an opportunity for the Respondent to compose herself and be ready to deal with a known problem, whether or not there was a momentary glitch with the address. The delay caused by the address being wrong may have been the reason the Respondent did not arrive at the same time as the Primary Vet or slightly before her, but the fact remains she was second on the scene, and that is something that happens, as stated by the Primary Vet. The Primary Vet's initial approach, to calm everyone and get things organized in a calm and professional manner, stands in stark contrast to what happened when the Respondent arrived.

[152] We accept that Dr. Posnikoff was having a tough day, and we accept that, as pointed out by the Respondent, many veterinarians are under considerable stress due to workload and changes in clients' expectations and their own level of etiquette. However, veterinarians are expected not to take out their personal frustrations on the clients that they are expected to help. The Primary Vet left her son's birthday party to attend the incident, and yet the demeanor and actions of the two veterinarians involved could not have been more different.

[153] We accept that the Respondent was perturbed by the attendance of two veterinarians to the incident and even that, for a routine matter, there may be a reasonable expectation that a second vet not be called, or be advised when the first arrives. However, this was not a routine matter. It was a dire emergency, and other than the Respondent, those present viewed it as reasonable and understandable that the young women had called two vets in the hopes of getting someone to attend. The Respondent's arrival as second on scene was a matter of timing more than anything else, and it seems unlikely that being called as soon as the Primary Vet arrived would have saved much of her time or alleviated her frustration at being called away from the ailing foal.

[154] In terms of timing, had the group made it clear earlier in the process that Dr. Posnikoff was not required, that did not necessarily absolve her of an obligation to offer assistance, rather than "blowing up," as she appears to have done. She herself said she would have come as the second vet, "in a heartbeat," if she had been asked to do so. The Respondent's frustrations should have taken a backseat to the drama that was unfolding in the paddock. A member of a helping profession must be held to a standard of advancing the needs of their clients ahead of their own; particularly when the clients' needs are clearly more urgent, in the circumstances. As pointed out by the College, the Respondent could have waited and expressed her frustration on a later occasion, in a measured email, along with the invoice. The reasonable, professional response would have been to stay and offer her assistance, which by all accounts did not occur, and perhaps even to tell the Mother that the payment could easily wait while she spent this crucial time with her daughter. We note as well that the evidence supports a conclusion that the

Respondent was unwilling to listen to the Friend's explanations, rather than extending an ear, or some sympathy.

[155] In addition to making the comments about calling two vets, the Respondent also admittedly mentioned that she had left the critically ill foal, and advanced that in her evidence as a reason for her own level of distress. We note however that she had made arrangements to be available in the event of an emergency and was able to leave the foal in the care of the employee who had been caring for it earlier in the day. Those arrangements had been put in place and the Student had been called in; accordingly, as we have observed, it seems unlikely that a call from the Friend to advise that the Primary Vet had arrived would have saved the Respondent much grief or time.

[156] We also observe that Dr. Posnikoff missed a chance to conclude this whole affair, had she answered the Complainant's email as her office said she would. As with her response to why she did not withhold or postpone her comments at the incident, her suggestion that she was very busy and did not get around to it, or was herself traumatized by the complaint, prioritizes her own needs over those of the animal owner and discounts or dismisses the more significant trauma of the College witnesses. It also completely overlooks her professional responsibility to assist them, her professional capacity, to manage their trauma.

a. Professional Misconduct

[157] We agree with the College that the more applicable aspect of Section 61 is professional misconduct rather than conduct unbecoming a registrant, and that the standard is that adopted in *Chaudhry*, a marked departure from the conduct expected of a competent registrant. The yardstick for conduct unbecoming a registrant may be the same, but we need not decide that, because we believe this situation must be viewed in the context of the Respondent's attendance as a veterinarian, and that the second part of the section may be generally reserved for conduct occurring outside the practice of veterinary medicine.

[158] Considered against the backdrop of what we find to be the proven facts, the view of the Panel is that the Respondent's conduct here does not amount to a *marked* departure from conduct expected of a competent registrant, and therefore does not constitute the more serious allegation of professional misconduct. While the Respondent no doubt appeared brusque, insensitive, and perhaps abrasive, in the absence of proof of the alleged profanities, the conduct amounts to heated and critical comments and demeanour in reaction to what the Respondent appears to have considered essentially a "last straw," resulting in a failure on her part to appropriately temper her frustration. It was not particularly prolonged, and the Respondent appears to have been provoked by her perception of the situation; albeit a perception that we find failed to account for all of the circumstances.

[159] In thus characterizing the Respondent's behaviour, we consider that the circumstances, on the whole, therefore do not support a finding of professional misconduct. If conduct of this nature in this context might also support a finding of conduct unbecoming of a registrant, we would be of the same view, that it falls short of that serious a finding against the Respondent.

b. Bylaw Breaches

[160] As to whether the Respondent's conduct amounts to non-compliance with a provision of the Bylaws, we are of the view that these define something lesser than the professional misconduct specified in Section 61. They appear to have more to do with "unprofessional conduct," than overt misconduct, and to apply in circumstances where, although the conduct may not markedly cross a line in terms of actions expected of a registrant, it falls short of an expected standard. We also accept the Respondent's sentiment that the Bylaws are not intended to capture trivial transgressions or mere deficiencies in etiquette.

[161] Clearly, however, there was nothing trivial about the entire set of events that transpired on July 21, 2021, for any of the participants. The animal's death was a clear, traumatic, tragic accident, and it is very clear that the Respondent's attendance, and perceived brusque or abrasive demeanour, far from helping, exacerbated the experience for all of the College witnesses.

[162] Our view is that the most applicable of the specified Bylaw provisions are those requiring that a registrant: be "courteous, respectful and professional in all dealings with clients, the public, other registrants and registrants of other professions" [Section 203(2)]; "uphold and advance the honour and dignity of the profession and promote its high standards of ethical conduct" [209(a)]; and "ensure that his or her interactions with other registrants are characterized by the hallmarks of professionalism, including respect, courtesy, candor and good faith." [210(b)]. In our view, the other specified provisions have more to do with conduct in the provision of services or treatment of patients than with personal interactions with members of the public or other registrants.

[163] Considering firstly whether Section 203(2) applies, the primary question is whether the Respondent was discourteous and disrespectful. This boils down to whether she went beyond an acceptable standard in displaying disgruntlement and rebuking members of the public, or clients, it matters not which, for permitting her to attend unnecessarily, instead of holding back her displeasure. It is also a question of whether, if she felt the need to say something, she could have said it later, or differently.

[164] In considering this question, we note that it is not a matter of whether the witnesses had time to call the Respondent off, it is a question of what she understood when she was dismissed. In this respect we note that the Complainant called it a "first come first served" situation, and it may not have been clear to the Respondent that there was not time to reach her. It may have appeared that they had decided not to, as the Friend stated. However, as we have observed, the

evidence supports a view that the Respondent declined to hear the explanations offered by the Friend, and, even had they thought to call her off, little of her time would have been saved.

[165] We also bear in mind that the Respondent appears to have believed, or recalls, that she spoke to the Mother primarily, and perhaps to the Friend, but not to the Complainant or the Primary Vet, about her concerns. By all accounts, however, anger appeared to have been displayed, and the Respondent clearly and admittedly reacted with displeasure to being advised that the Primary Vet was present and the Respondent was not required.

[166] Perhaps the Respondent's viewpoint was that this was more in the nature of a peer-to-peer conversation; enlisting the Mother to her cause and hoping to educate the younger members of the horse community about the gravity of calling a member of her profession to attend an emergency; unnecessarily, as it turned out. The Respondent makes the point that she believed the Mother had accepted her condolences and it was acceptable for her to leave. The Mother's evidence supports that the conversation had softened by that point. However, the evidence does not support a conclusion that the Mother considered the conversation appropriate or acceptable, and whether the Respondent believed she was enlisting a peer to her cause, the Mother was no less a traumatized participant in the unfortunate circumstances, and no less deserving of the Respondent's sympathy and respect.

[167] In any event, the primary complaint relates to the display of anger and frustration at the time when the Respondent first learned she was not required, which we have found occurred outside the truck and in close enough proximity to the whole group that her displeasure was evident. It is unfortunate that Dr. Posnikoff found herself unable to withhold any remarks about her own concerns and follow up later. As we have observed, it is equally unfortunate that she did not provide a response email to the Complainant, with an apology. We understand that her ability to do so was coloured by her mindset pertaining to the issues in the equine veterinarian sphere, but the witnesses at the scene could not have known that and cannot be faulted for their behaviour, whatsoever. The Respondent was the professional in the situation. We understand how an utter failure to respond to the Complainant's email(s) would be considered a slap in the face or add insult to injury. It seems likely that lack of response was the catalyst for the complaint to the College.

[168] We find it necessary to observe that it is equally unfortunate that a year passed before the College was able to address the complaint, or take any statements, and that the witnesses therefore had a long opportunity to discuss and collectively attempt to recall the events, by then exacerbated by the Respondent's complete silence. We note that they had also arrived at a considerable reluctance to advance the complaint.

[169] Perhaps the matter could have been resolved in some other fashion at that point, and while we understand that the College faults the Respondent for taking what they consider to have

been an overly defensive approach, we observe that she perceived the complaint as an attack on her professionalism and livelihood that merely highlighted, for her, the irony of a complaint having arisen from a genuine and arduous attempt to respond to the call in a professional manner.

[170] The question that has perhaps caused us the most difficulty is whether, taken in context and within the framework of the Respondent's mindset at the time of the incident, her behaviour fell short of the standard of courteous and respectful behaviour in a manner that is deserving of sanction. We have come to the view that the Respondent's decision to share her frustrations with a group of people, or any of them, who were in a state of high distress and who had called her to help, fell short of the expected standard. Her remarks and demeanour were ill-considered, intemperate, and badly timed for the occasion, and we conclude that they amount to non-compliance with the Bylaw requirements of courtesy and respect. In context, we do not consider this conduct to be egregious, but that is not required for professional liability. The Respondent was not courteous, she did not serve the profession well, and in our view, she breached Section 203(2) of the Bylaws.

[171] Turning to the application of Section 209(a), we are also of the view that the Respondent's behaviour fell short of the obligation to uphold and advance the honour and dignity of the profession. The Respondent's decision to vent her frustrations and prioritize her own needs, in the dire circumstances of which she was aware, did not exhibit honour and dignity. However, we believe it is not necessary in the circumstances to find that this single incident amounts to two allegations of non-compliance, and we believe Section 203(2) to be the more applicable provision.

[172] In relation to the issue of Section 210(b) and the Respondent's treatment of the Primary Vet, we note, firstly, that it seems likely the Respondent did not know she was a veterinarian when she uttered the remarks that are attributed to her. For the same reason, the Primary Vet's perception of the Respondent as "dismissive and not cordial" come from a perspective of the Primary Vet not knowing that the Respondent did not know who she was. The Primary Vet accepted that she may have seemed less than cordial as well, and it must be noted that she did not know Dr. Posnikoff had been called.

[173] At very least the situation was awkward for both practitioners. Even with that, the Primary Vet only classified Dr. Posnikoff's conduct on the whole as "somewhat unprofessional," and her opinion, in all the circumstances, is not determinative of whether the Respondent fell short of the standard pertaining to interactions between registrants. The interaction was brief, and memories now fail about the extent of it. We have already commented on the failure of proof in relation to inappropriate language, and while the Respondent's conduct toward the Primary Vet might be considered brusque and perhaps dismissive, it was not in our view disrespectful or discourteous, or short of the hallmarks of professionalism, to the extent of professional liability.

G. Conclusion

[174] We have reached the conclusion that the Respondent's behaviour crossed the line into a breach of Section 203(2) of the Bylaws, requiring that a registrant be courteous, respectful and professional in all dealings with clients and the public. We do not find the conduct on this single occasion to be such a marked departure as to constitute professional misconduct, particularly when considered in all of the circumstances. We consider it important that members of the profession be aware of the need to place clients' needs ahead of their own; particularly in sensitive situations such as this most unfortunate matter; and not to advance personal circumstances as justification for discourteous, disrespectful or unprofessional behaviour.

[175] We have considered the Respondent's personal challenges at some length, and while we have not found that they amount to a full defence to her conduct on this occasion, we believe they may have relevance as mitigation in relation to the question of appropriate sanctions and costs. We will be inviting submissions on the next phase as to how the Respondent might be supported, in the measures available to the Panel, to face her challenges without permitting discourtesy and frustration to seep into her interpersonal interactions, and without succumbing to her admitted temptation to leave practice. We have gained the impression from the evidence in this matter that the Respondent is a skilled and competent equine emergency veterinarian with a considerable client base, and it seems likely her departure would be a significant blow to the equine community. We hasten to add that we have not yet heard submissions on sanctions, nor have we been informed of whether the Respondent has any disciplinary history.

[176] We will also observe in closing that the Respondent found herself without counsel at the discipline hearing, and chose to go ahead, nonetheless. She represented herself professionally, competently, and candidly.

Signed by Panel Members:

Carol Baird Ellan

Carol Baird Ellan K.C.
Chair of the Panel

Al Runnells

Dr. Al Runnells

Ian Welch

Dr. Ian Welch