TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS
1946 South IH 35, Box 113
Austin, TX 78704

DOCKET NUMBER 1991-15
ANGUS MACDONALD, D.V.M.
LICENSE NUMBER: 2638

NEGOTIATED SETTLEMENT

This negotiated settlement has been entered by agreement between Dr. MacDonald, the Texas State Board of Veterinary Medical Examiners staff in concurrence with the Board Secretary. It is presented to the Board as a recommendation only. If the Board elects to reject or amend this negotiated settlement the defendant, Dr. MacDonald, will be granted a continuance at his option.

Dr. MacDonald does not contest the allegations set forth in the Complaint and agrees that, accordingly, the Board may treat the allegations of fact and law as true, which findings shall have the same force and effect as if evidence and argument were presented in support of the allegations, and based thereon, the Board found the allegations to be true. Respondent understands and intends that by so stating, he/she is not admitting the truth of the allegations, but is merely agreeing that the Board may enter an Order treating the allegations as true without the necessity of receiving evidence in support thereof.

SUMMARY OF CHARGES:
Allowing the practice of veterinary medicine without a license by a staff member; failure to maintain adequate patient records.

RECOMMENDED DISCIPLINARY ACTION:
1. Reprimand
2. Pay a Civil Penalty in the sum of $500.00.

CONDITIONS:
1. Submit quarterly reports certifying continued compliance with the Orders during the probationary period, with the first report due April 1, 1991.
2. Abide by the laws and Rules of the State of Texas as they pertain to the practice of veterinary medicine.
3. Take and pass the State Board Jurisprudence Examination as scheduled by the Board staff.
4. Obtain twenty (20) hours of Continuing Education prior to February 5, 1992.

ANGUS MACDONALD, D.V.M.

Donald B. Wilson, Executive Director
TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS

Date: 24 Jan 91
The foregoing Agreed Settlement, entered into between Dr. Angus MacDonald, the Board Secretary, and Board Executive Staff and having been presented to the Texas State Board of Veterinary Medical Examiners as a No contest Plea, was accepted by the Board, and the Board, on the 6th of February, 1991, ORDERED that all penalties and conditions as stated therein be complied with the same as if the Board had heard evidence and testimony and as a result of such hearing had issued Findings and Orders.

Executed this the 6th day of February, 1991.

Robert D. Lewis, D.V.M., President

Mary E. Mainster, D.V.M., Vice-President

Guy A. Sheppard, D.V.M., Secretary

Larry M. Dubuisson, D.V.M., Member

Mrs. Olivia R. Eudaly, D.V.M., Member

Alton F. Hopkins, Jr., D.V.M., Member

Mr. Mike Levi, Member

Fred K. Soifer, D.V.M., Member

Mr. Clark S. Willingham, Member
DOCKETED COMPLAINT NO. 1991-15

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS

vs.

ANGUS MACDONALD, D.V.M.

TEXAS VETERINARY MEDICAL LICENSE NO. 2638

1990 RENEWAL CERTIFICATE NUMBER 2729

COMPLAINT AFFIDAVIT FORM

BEFORE ME, the undersigned authority, a Notary Public in and for Texas, on this day personally appeared ERNIE M. CARROLL, who after being duly sworn, did depose and say:

On or about July 3, 1990, Ernie M. Carroll, being an employee of the Texas Board of Veterinary Medical Examiners, did in the course of such employment, make certain investigations into the professional conduct of one ANGUS MACDONALD, D.V.M., Mobile Animal Clinic, 6125 Denton Drive, Dallas, Dallas County, Texas, Veterinary License Number 2638, 1990 Renewal Certificate Number 2729, a practitioner of veterinary medicine in the State of Texas. As an employee of the Texas Board of Veterinary Medical Examiners, I, Ernie M. Carroll, do hereby present the following complaint against ANGUS MACDONALD, D.V.M., who is herein-after called Respondent.

I.

On or about June 11, 1990, Ms. Pat Pscheidt presented two cats to Respondent's clinic for dipping. Respondent was not on the premises at the time and did not see or examine the cats. Mr. Miguel (Mike) Ortiz, an unlicensed person, dipped the cats as requested. Ms. Pscheidt picked up the cats later the same day.

II.

Upon arrival at home, Ms. Pscheidt discovered that one of the cats, "Ed", was not well. Ms. Pscheidt called Respondent's clinic and was instructed by Mr. Ortiz to return the cat to the clinic as it might be suffering from a reaction to the dip. Upon arrival at the clinic, Respondent was not on the premises, and Mr. Ortiz telephoned Respondent. Respondent ordered Mr. Ortiz to administer 30.0 ml. of Vetalog every 12 hour to the cat and give the cat a bath to remove the dip. Mr. Ortiz made the decision independently to administer 0.5 ml. of Atropine. The Respondent did not examine or treat the cat himself until the following day.

III.

Respondent did not maintain patient records reflecting the treatment administered to Ms. Pscheidt's cats for reaction to the dipping.

IV.

By allowing Mr. Ortiz to diagnose and administer prescription medications to "Ed" without direct supervision, Respondent has violated Rules of Professional Conduct 573.4, 573.10, and 573.11; Article 8890, V.A.T.S., Veterinary Licensing Act, Section 14(a)(5), and (6) which state in part:

Revisions or complaints made on hearing.
573.4 ADHERENCE OF THE LAW
No veterinarian shall render any service of advice involving disloyalty to the law. A veterinarian must also observe and advise clients to observe the law.

573.10 DIRECT SUPERVISION OF LAYMEN
(a.) A licensed veterinarian shall not allow an unlicensed person to issue presigned certificates with the veterinarian's signature affixed thereto. The licensee shall not permit an unlicensed person to inoculate or treat animals unless the inoculation or treatment are done under the direct supervision of the licensed veterinarian; provided however, an unlicensed individual shall not perform the following health care services: surgery; diagnosis and prognosis of animal diseases; and prescribing of drugs, medicine, and appliance for domestic animals.

(b.) "Direct Supervision" shall mean the supervision of those tasks or procedures that do not require the presence of a veterinarian in the room where performed, but require the presence of a licensee on the premises and availability for prompt consultation and treatment.

573.11 DISCOURAGEMENT OF UNAUTHORIZED PRACTICE
A licensed veterinarian shall be professionally and legally responsible for the unauthorized practice of veterinary medicine by unlicensed employees within the scope of their employment. An employee's unauthorized practice of veterinary medicine without a license constitutes grounds for the Texas State Board of Veterinary Medical Examiners to take action against the licensed veterinarian.

Article 8890, Sec. 14(a)
". . . the Board may revoke or suspend a license, impose a civil penalty, place a person whose license has been suspended on probation, or reprimand a license . . . if it finds that . . . a licensee:

(5) has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with law;

(6) has permitted or allowed another to use his license, or certificate to practice veterinary medicine in this state;

V.

By ordering Mr. Ortiz to administer prescription medications prior to establishing a veterinary/client/patient relationship, Respondent has violated Rules of Professional Conduct 573.4 and 573.41; and Article 8890, V.A.T.S., Veterinary Licensing Act, Section 14(a)(5), (6), and (12) which state in part:

573.4 ADHERENCE OF THE LAW
No veterinarian shall render any service of advice involving disloyalty to the law. A veterinarian must also observe and advise clients to observe the law.
573.41 USE OF PRESCRIPTION DRUGS
(a.) It is unprofessional conduct for a licensed veterinarian to prescribe or dispense, deliver, or order delivered any prescription drug without first having established a veterinary/client/patient relationship by having personally examined the individual animal, herd, or a representative segment or a consignment lot thereof and determined that such prescription drug is therapeutically indicated following said examination. Prescription drugs include all controlled substances in Schedules I thru V and Legend Drugs which bear the federal legends, recognized as such by any law of the State of Texas or of the United States.

(b.) It shall be unprofessional and a violation of the Rules of Professional Conduct for a licensed veterinarian to prescribe, provide, obtain, order, administer, possess, dispense, give or deliver to or for any person prescription drugs, that are not necessary or required for the medical care of animals, or where the use or possession of such drugs would promote addiction thereto. Prescription drugs are defined in subsection (a.) of this section.

Article 8890, Sec. 14(a)
"... the Board may revoke or suspend a license, impose a civil penalty, place a person whose license has been suspended on probation, or reprimand a license ... if it finds that ... a licensee:

(5) has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with law;

(6) has permitted or allowed another to use his license, or certificate to practice veterinary medicine in this state;

(12) has ordered prescription drugs or controlled substances for the treatment of an animal without first establishing a valid veterinarian-client relationship.

VI.

By failing to maintain patient records reflecting the treatment administered to Ms. Pscheidt’s cats, Respondent has violated Rule of Professional Conduct 573.52 and Article 8890, V.A.T.S., Veterinary Licensing Act, Section 14(a) (5) which state in part:

573.52 PATIENT RECORD KEEPING
(a.) Individual records will be maintained at the place of business and include, but are not limited to, identification of patient, patient history, including immunization records, dates of visits, x-rays, name and dosages of medications administered and/or dispensed, and other details as necessary to substantiate diagnosis and treatment.

(b.) Patient records shall be current and maintained on the business premises for a period of three years and are the responsibility and property of the employing veterinarian.
Article 8890, Sec. 14(a)
"...the Board may revoke or suspend a license, impose a civil penalty, place a person whose license has been suspended on probation, or reprimand a license... if it finds that... a licensee:

(5) has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with law;

VII.

The Texas State Board of Veterinary Medical Examiners has grounds to take disciplinary action against Dr. Angus MacDonald’s Veterinary License under the Texas Veterinary Licensing Act, V.A.T.S., Article 8890, (formerly Article 7465a) Section 14 which states in part:

Article 8890, Sec. 14(a)
"...the Board may revoke or suspend a license, impose a civil penalty, place a person whose license has been suspended on probation, or reprimand a license... if it finds that... a licensee:

(5) has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with law;

(6) has permitted or allowed another to use his license, or certificate to practice veterinary medicine in this state;

(12) has ordered prescription drugs or controlled substances for the treatment of an animal without first establishing a valid veterinarian-patient-client relationship.

Article 8890, Section 14B
(a) If a person violates this Act in a manner that constitutes grounds for disciplinary action by the Board, the Board may assess a civil penalty against that person in addition to taking action under Section 14 or 14A of this Act.

The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the 1st day of December, 1990.

Further, Affiant sayeth not.

ERNIE M. CARROLL, Affiant
SUBSCRIBED and SWORN TO before me by the said ERNIE M. CARROLL, this the 12th day of December, 1990.

JUDY C. SMITH
Notary Public, State of Texas
My Commission Expires SEPT. 13, 1993

My Commission Expires: September 13, 1993

The foregoing Complaint is hereby filed and docketed with the Texas State Board of Veterinary Medical Examiners and styled Texas State Board of Veterinary Medical Examiners vs. ANGUS MacDONALD, D.V.M. under Docketed Number 1991-15, this the 15th day of December, 1990.

GUY A. SHEPPARD, D.V.M., Secretary
Texas Board of Veterinary Medical Examiners