DOCKETED COMPLAINT NO. 1986-3

TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS vs. JOSEPH GERARD MANDOLA, D.V.M.

TEXAS VETERINARY MEDICAL LICENSE NO. 4980
1986 RENEWAL CERTIFICATE NUMBER 2934

FINDINGS, CONCLUSIONS AND ORDERS OF THE BOARD

On the 11th day of May, 1986, the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS, being in regular meeting at the Ramada Inn in College Station, Brazos County, Texas, such meeting being called for the purpose of hearing and considering the above numbered and entitled complaint, and the above entitled and numbered complaint having been previously scheduled for hearing and Defendant, the said JOSEPH G. MANDOLA, D.V.M., having been duly notified and the following members of the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS being present to-wit:

DR. EDWARD S. MURRAY, President of Spur, TX.
DR. ED B. AVERY, Vice-President of Pearsall, TX.
DR. K. D. DORRIS, Secretary of Stephenville, TX.
DR. W. L. "DUB" ANDERSON, Member of Addison, TX.
MR. JIM HUMPHREY, Member of Henrietta, TX.
MR. MIKE LEVI, Member of Spicewood, TX.
DR. MARY E. MAINSTER, Member of San Antonio, TX.
DR. FRANK E. MANN, JR., Member of Khartoum, TX.
DR. FRED K. SOIFER, Member of Houston, TX.

At 2:30 p.m., the appointed hour, the President of the Board, DR. EDWARD S. MURRAY ordered the case to proceed at which time it was ascertained that JOSEPH G. MANDOLA, D.V.M. and his legal counsel, MARK D. WILSON, were present in person; the Board then proceeded to hear the evidence presented by the State, and by MARK D. WILSON, Attorney for JOSEPH G. MANDOLA, D.V.M., and on the same day, May 11, 1986, all of the above members of said Board being present and participating, makes the following findings, to-wit:

FINDINGS OF FACT

I.

JOSEPH G. MANDOLA, D.V.M. is a doctor of veterinary medicine, licensed to practice veterinary medicine in the State of Texas under License Number 4980 with offices at Richmond, Texas.

II.

JOSEPH G. MANDOLA, D.V.M. received notice of this hearing more than ten (10) days ago, in due time.
III.

On March 13, 1986, JOSEPH G. MANDOLA, D.V.M. allowed GARY SELMONSKY to diagnose and administer an anti-inflammatory medication to a dog presented to him by ERNIE M. CARROLL at his veterinary clinic in Richmond, Fort Bend County, Texas, without JOSEPH G. MANDOLA, D.V.M. being on the premises.

IV.

JOSEPH G. MANDOLA, D.V.M. is the supervising veterinarian of GARY SELMONSKY within the concept of the preceptor program as prescribed by the Education Commission for Foreign Veterinary Graduates.

V.

JOSEPH G. MANDOLA, D.V.M. had bills printed listing himself and "Dr. Gary M. Selmonsky" for his clinic.

VI.

DR. JOSEPH G. MANDOLA's veterinary clinic received $28.00 from ERNIE M. CARROLL on March 13, 1986 for veterinary services rendered by GARY SELMONSKY.

VII.

JOSEPH G. MANDOLA, D.V.M. had knowledge that GARY SELMONSKY did not have a veterinary license in the State of Texas.

VIII.

On March 13, 1986, no other licensed veterinarian was present on the premises of the veterinary clinic of DR. JOSEPH GERARD MANDOLA in Richmond, Fort Bend County, Texas.

CONCLUSIONS OF LAW

I.

JOSEPH G. MANDOLA, D.V.M. has encouraged another to use his license or certificate to practice veterinary medicine in the State of Texas in violation of Article 7465a, Vernon's Annotated Texas Statutes.

II.

JOSEPH GERARD MANDOLA, D.V.M. has promoted, aided or abetted the practice of veterinary medicine by an unlicensed person in violation of Rule 14 of the Rules of Professional duty promulgated by the Texas State Board of Veterinary Medical Examiners and Article 7465a, Section 14(f), Vernon's Annotated Texas Statutes.

III.

JOSEPH GERARD MANDOLA, D.V.M. has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the Rules of Professional Conduct as duly promulgated by the Texas State Board of Veterinary Medical Examiners in violation of Article 7465a, Section 14(f), Vernon's Annotated Texas Statutes.
ORDER

It is hereby ORDERED that Texas Veterinary License No. 4980, heretofore issued to JOSEPH G. MANDOLA, D.V.M., by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS be and the same is HEREBY SUSPENDED for a period of six (6) months, from the date this Order is entered, PROVIDED HOWEVER, that the execution of this Order of Suspension be and it is HEREBY PROBATED, upon the following terms and conditions:

1. The said JOSEPH G. MANDOLA, D.V.M. will abide by each of the Rules of Professional Conduct promulgated by the State Board of Veterinary Medical Examiners and the Veterinary Licensing Act, Article 7465s of the Revised Civil Statutes.

MADE the 22nd day of May, 1986, and entered the 22nd day of May, 1986.

[Signature]

EDWARD S. MURRAY, D.V.M., Board President
DOCKETED COMPLAINT NO. 1986-3

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS

vs.

JOSEPH GERARD MANDOLA, D.V.M.

TEXAS VETERINARY MEDICAL LICENSE NO. 4980
1986 RENEWAL CERTIFICATE NUMBER 2934

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:

"I, 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 DR. JOSEPH GERARD MANDOLA, Texas Veterinary License Number 4980, 1986 Renewal Certificate Number 2934, 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 to the Executive Secretary of the Texas Board of Veterinary Medical Examiners, the following complaint against JOSEPH GERARD MANDOLA, D.V.M., who is hereinafter called Respondent.

I.

On March 13, 1986 I took a dog to the Richmond Animal Hospital, 502 Highway 90A, Richmond, Fort Bend, County, Texas, owned and operated by JOSEPH G. MANDOLA, D.V.M. I arrived at the clinic and 7:00 p.m. and found that GARY M. SELMONSKY was operating the emergency clinic in Dr. Mandola's absence. I presented the dog for a diagnosis of an injured leg. GARY SELMONSKY diagnosed the injury, administered an anti-inflammatory injection and collected a $28.00 fee for services rendered. I determined that DR. MANDOLA was not on the premises. I was provided with a statement of charges and a receipt for funds received, a copy of which is attached hereto as Exhibit A and made a part hereof for all purposes.

II.

I made a thorough search of the records of the Texas Board of Veterinary Medical Examiners and I found that GARY M. SELMONSKY, the individual diagnosing and administering the anti-inflammatory injection to the dog as described in paragraph I and who charged $28.00, Exhibit A, is not a licensed veterinarian in the State of Texas.
III.

The Texas Veterinary Licensing Act, Article 7465a, Vernon's Annotated Texas Statutes, Section 2b, states as follows:

"Any person shall be deemed in the practice of veterinary medicine who represents himself as engaged in the practice of veterinary medicine; or uses any words, letters, or titles in such connection or under such circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine, or any person who performs any surgical or dental operation or who diagnosis, treats, immunizes or prescribes any drug, medicine, application of veterinary appliance for any physical ailment, injury, deformity or condition of domestic animals, for compensation."

Article 7465a, Vernon's Annotated Texas Statutes, Section 4 states as follows:

"No person shall practice, offer or attempt to practice veterinary medicine in this state without first having obtained a valid license to do so from the Texas Board of Veterinary Medical Examiners."

IV.

DR. JOSEPH G. MANDOLA is a licensed veterinarian in the State of Texas, having received license number 5980 on August 21, 1981 from the Texas Board of Veterinary Medical Examiners. DR. MANDOLA has renewed his license each year since its issuance and on February 12, 1986, he received renewal certificate number 2934. By GARY M. SELMONSKY, a person who is not licensed to practice veterinary medicine in the State of Texas, performing acts which constitute the practice of veterinary medicine in the State of Texas, i.e. diagnosing, and administering medication, in DR. MANDOLA's absence and in DR. MANDOLA's veterinary facility located at 302 Highway 90A, Richmond, Fort Bend County, Texas, and by GARY M. SELMONSKY collecting a fee of $28.00 for veterinary services, Exhibit A, DR. MANDOLA violated Article 7465a, Section 14(f), Vernon's Annotated Texas Statutes in that he "permitted or allowed another to use his license, or certificate to practice veterinary medicine in this State, for purposes of treating or offering to treat sick, injured or afflicted animals." Additionally, DR. MANDOLA violated Article 7465a, Section 14(c) in that he engaged in dishonest or illegal practice in connection with the practice of veterinary medicine which were violative of the Standards of Professional Conduct as duly promulgated by the Board in accordance with the laws."

Rule 14 of the Rules of Professional Conduct duly promulgated by the Texas State Board of Veterinary Medical Examiners, which was in full force and effect on the date in question, states:

"A licensed veterinarian shall not promote, aid, or abet the practice of veterinary medicine by an unlicensed person, or illegal or unethical act on the part of a veterinarian."

DR. MANDOLA did allow GARY M. SELMONSKY to use his facilities for the practice of veterinary medicine in the State of Texas during the absence of DR. MANDOLA to diagnose and administer medications to animals in violation of the Texas Veterinary Licensing Act, Article 7465a, Vernon's Annotated Texas Statutes."
The foregoing complaint is submitted to the Executive Secretary of the Texas Board of Veterinary Medical Examiners on this the 20th day of April, 1986.

Further, Affiant sayeth not.

[Signature]
ERNIE M. CARROLL, Affiant

SUBSCRIBED and SWORN TO before me by the said ERNIE M. CARROLL, this the 20th day of April, 1986.

[Signature]
JUDY C. SMITH, Notary Public in and for Texas


Filed this ___ day of April, 1986, Texas Board of Veterinary Medical Examiners.

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. Joseph C. Mandola, D.V.M.

[Signature]
K. D. DORRIS, D.V.M., Secretary
Texas State Board of Veterinary Medical Examiners