DOCKETED COMPLAINT NO. 1987-8

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS

vs.

DAN EDWARD McBRIEDE, D.V.M.

TEXAS VETERINARY MEDICAL LICENSE NO. 3453
1986 RENEWAL CERTIFICATE NUMBER 0651

FINDINGS, CONCLUSIONS AND ORDERS OF THE BOARD

On the 30th day of January, 1987, the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS, being in regular meeting at the Hyatt Regency Hotel in Fort Worth, Tarrant County, Texas, such meeting being called for the purpose of hearing and considering the above numbered and entitled complaint as well as for consideration of other Board business, and the above entitled and numbered complaint having been previously scheduled for hearing and Defendant, the said DAN EDWARD McBRIEDE, 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. ED B. AVERY, President
DR. EDWARD S. MURRAY, Vice-President
DR. W. L. "DUB" ANDERSON, Secretary
MR. JIM F. HUMPHREY, Member
MR. MIKE LAVI, Member
DR. MARY E. MAINSTER, Member
DR. FRANK E. MANN, JR., Member
DR. FRED K. SOIFER, Member

of Pearsall, TX
of Spur, TX
of Addison, TX
of Henrietta, TX
of Spicewood, TX
of San Antonio, TX
of Wharton, TX
of Houston, TX

At 1:30 p.m., the appointed hour, the President of the Board, DR. ED B. AVERY ordered the case to proceed at which time it was ascertained that DAN EDWARD McBRIEDE, D.V.M. and his legal counsel, MR. ROBERT ARMSTRONG were present in person; the Board then proceeded to hear the evidence presented by the State, and by MR. ARMSTRONG, Attorney for Dr. McBride, and on the same day, January 30, 1987, all of the above members of said Board being present and participating, makes the following findings, to-wit:

FINDINGS OF FACT

I.

DAN EDWARD McBRIEDE, D.V.M. is a doctor of veterinary medicine, licensed to practice veterinary medicine in the State of Texas under License Number 3453, 1986 Renewal Certificate Number 0651, with offices in Burnet, Burnet County, Texas.
II.
DAN EDWARD McBRIEDE, D.V.M. received notice of this hearing on January 12, 1987.

III.
DAN EDWARD McBRIEDE, D.V.M. was present before the Board, and was represented by legal counsel.

IV.
According to the sworn statement of CYNTHIA E. RIBERA, DAN E. McBRIEDE, D.V.M. instructed her, a non-licensed employee for Dr. McBride, on the correct way to administer, DHL, Parvo, Rabies, and Feline DHL injections, as well as dispense substances such as Filaribits and worming medications. Dr. McBride assigned Ms. Ribera to cover the veterinary practice at the Marble Falls Clinic located at 1205 N. Hwy 281, Marble Falls, Texas in his absence. Clients arriving at the Marble Falls Veterinary Clinic, 1205 N. Hwy 281, Marble Falls, Texas were to be informed that although Ms. Ribera is not a licensed veterinarian, she has received instructions on the proper method in which to administer inoculations and vaccines and would be willing to accommodate clients requesting this service in Dr. McBride's absence.

V.
In accordance with a Negotiated Settlement arising out of Docketed Complaint 1986-8 made and entered on the 15th day of August, 1986, Dr. McBride's license was suspended and probated for a period of two years. A condition of this probation is to abide by the laws and rules of the State of Texas.

CONCLUSIONS OF LAW

I.
Because of the acts in Paragraph IV, allowing an unlicensed individual to administer vaccinations and dispense medications in his absence from the premises, Dr. McBride has violated Rule 14 of the Rules of Professional Conduct duly promulgated by the Texas State Board of Veterinary Medical Examiners which states:

Rule 14 - "A licensed veterinarian shall not promote, aid, or abet the practice of veterinary medicine by an unlicensed person, or any illegal or unethical act on the part of any veterinarian."
II.

Because of the acts in Paragraph IV, allowing an unlicensed individual to administer vaccinations and dispense medications in his absence from the premises, Dr. McBride has violated Rule 15 of the Rules of Professional Conduct duly promulgated by the Texas State Board of Veterinary Medical Examiners which states:

Rule 15 states in part -

A. General - A licensed veterinarian shall not allow an unlicensed person to issue certificates with the veterinarian’s signature affixed thereto, or shall he permit an unlicensed person to inoculate or treat animals unless the issuance of the certificate and 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 animals diseases; prescribing of drugs, medicine, and appliances for domestic animals.

B. Definitions - 'Direct Supervision' shall mean the supervision of those tasks or procedures that do not require the presence of the veterinarian in the room where performed, but require his presence on the premises and availability for prompt consultation and treatment."

III.

By allowing an unlicensed individual to administer vaccinations and worm medication in his absence from the premises, Dr. McBride "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 the law", under Article 7465a, Section 14(e), which gives the Board grounds to revoke or suspend a license, place a person whose license has been suspended on probation or reprimand a licensee.

IV.

By allowing an unlicensed individual to administer vaccinations and worm medication in his absence from the premises, Dr. McBride "has permitted or allowed another to use his license, or certificate to practice veterinary medicine in this state, for the purpose of treating, or offering to treat, sick injured or afflicted animals" under Article 7465a, Section 14(f) which gives the Board grounds to revoke or suspend a license, place a person whose license has been suspended on probation, or reprimand a licensee.
V.

By failing to comply with the conditions of his license probation, Dr. McBride "has engaged in dishonest or illegal practices in or connected with the practice of veterinary medicine" under Article 7465a, Section 14(c), which gives the Board authority to revoke or suspend a license, place a person whose license has been suspended on probation, or reprimand a licensee.

ORDERS

It is hereby ORDERED that the probationary period and conditions outlined in the Negotiated Settlement (see attached) arising out of Docketed Complaint 1986-8 be extended for an additional three (3) years for a total of five (5) years probation ending in August, 1991. This PROBATION is contingent on the following condition:

1. That Dan E. McBride, D.V.M. take the State Board Examination on Jurisprudence at the Board Offices in Austin within sixty (60) days of the date of this Order. The examination will be taken to demonstrate Dr. McBride's knowledge of the Veterinary Practice Act. It will not be administered on a pass/fail basis but as a means to identify deficiencies in Dr. McBride's understanding of the Act. The examination will be critiqued and corrected to 100% with Dr. McBride, to enhance his understanding of the Act.
The foregoing Findings and Orders of the Texas State Board of Veterinary Medical Examiners are ORDERED to be entered as the FINDINGS AND ORDERS of the Board, a quorum and a majority of the members of such Board being present and participating in such hearing, deliberations and decision, and such FINDINGS AND ORDERS are made on the __th day January, 1987, in Fort Worth, Tarrant County, Texas.

The Secretary of the Board is hereby ordered to prepare the Board's Findings and Orders in appropriate form and submit to the members of the Board for their signatures and to mail a copy of same to the Respondent at his last known address.

Executed this ___th day of January, 1987.

Ed B. Avery, D.V.M.  1/30/87  
ED B. AVERY, D.V.M., President

(Vacant)  
Date

W. L. "Dub" Anderson, D.V.M.  1/30/87  
W. L. "DUB" ANDERSON, D.V.M., Secretary

Jim F. Humphrey  1/24/87  
JIM F. HUMPHREY, Member

Mike Levi  1/24/87  
MIKE LEVI

Mary E. Heinster, D.V.M.  1/30/87  
MARY E. HEINSTER, D.V.M., Member

Frank E. Mann, Jr., D.V.M.  1/30/87  
FRANK E. MANN, JR., D.V.M., Member

Fred K. Stilpi  1/30/87  
FRED K. STILPI, D.V.M., Member

Edward S. Murray, D.V.M.  1/30/87  
EDWARD S. MURRAY, D.V.M., Member
DOCKETED COMPLAINT NO. 1987-8

TEXAS STATE BOARD OF VETERINARY
MEDICAL EXAMINERS

vs.

DAN EDWARD McBRIEDE, D.V.M.

I

TEXAS VETERINARY MEDICAL
LICENSE NO. 3453
1986 RENEWAL CERTIFICATE
NUMBER 0651

COMPLAINT AFFIDAVIT FORM

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

"I, THOMAS CHESIRE 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. DAN EDWARD McBRIEDE, D.V.M., Burnet
Veterinary Clinic, Inc., Route 2, Box 11-AA, Burnet, Burnet County, Texas, Texas
Veterinary License Number 3453, 1986 Renewal Certificate Number 0651, a prac-
titioner of veterinary medicine in the State of Texas. As an employee of the
Texas Board of Veterinary Medical Examiners, I, THOMAS CHESIRE do hereby pre-
sent the following complaint against DAN EDWARD McBRIEDE, D.V.M., who is herein-
af ter called Respondent.

I.

According to a statement from CYNTHIA E. RIBERA, DAN E. McBRIEDE, D.V.M. instruc-
ted CYNTHIA E. RIBERA, a non-licensed employee for Dr. McBride, on the correct
way to administer, DHL, Parvo, Rabies, and Feline DHL injections, as well as
dispense substances such as Filaribits and worming medications. Dr. McBride
assigned Ms. Ribera to cover the veterinary practice at the Marble Falls Clinic
located at 1205 N. Hwy 281, Marble Falls, Texas in his absence with instructions
to inform clients arriving at the Marble Falls Veterinary Clinic, that although
she (Ms. Ribera) is not a licensed veterinarian, she has received instructions
on the proper method in which to administer inoculations and vaccines and would
be willing to accomodate clients requesting this service in Dr. McBride's absence.
II.
In accordance with a Negotiated Settlement arising out of Docketed Complaint 1986-8 (See Exhibit A), made and entered on the 15th day of August, 1986, Dr. McBride's license was suspended and probated for a period of two years. A condition of this probation is to abide by the laws and rules of the State of Texas.

III.
Because of the acts in Paragraph I, allowing an unlicensed individual to administer vaccinations and dispense medications in his absence from the premises, Dr. McBride has violated Rules 14 and 15 of the Rules of Professional Conduct duly promulgated by the Texas State Board of Veterinary Medical Examiners which state:

Rule 14 - "A licensed veterinarian shall not promote, aid, or abet the practice of veterinary medicine by an unlicensed person, or any illegal or unethical act on the part of any veterinarian."

Rule 15 states in part -
"A. General - A licensed veterinarian shall not allow an unlicensed person to issue certificates with the veterinarian's signature affixed thereto, or shall he permit an unlicensed person to inoculate or treat animals unless the issuance of the certificate and 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 animals diseases; prescribing of drugs, medicine, and appliances for domestic animals.

B. Definitions - 'Direct Supervision' shall mean the supervision of those tasks or procedures that do not require the presence of the veterinarian in the room where performed, but require his presence on the premises and availability for prompt consultation and treatment."

IV.
Because of the acts in Paragraph I, DAN E. McBRIDE, D.V.M. has violated Article 7465a, Sections 14(e) and (f) which state:

Article 7465a, Section 14(e) and (f) - 
"... the Board may revoke or suspend a license, place a person whose license has been suspended on probation, or reprimand a licensee, ... if it find that an applicant or licensee:
(e) 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 the law, or
(f) has permitted or allowed another to use his license, or certificate to practice veterinary medicine in this state, for the purpose of treating, or offering to treat, sick, injured or afflicted animals."

IV.

Because of the acts listed in Paragraph II, failing to comply with the conditions of his license probation, DR. McBRIEDE has violated Section 14(c), Article 7465a, Veterinary Licensing Act Section 14(c) which states in part:

Article 7465a, Section 14(c), Veterinary Licensing Act —
"... the Board may revoke or suspend a license, place a person whose license has been suspended on probation, or reprimand a licensee ... if it finds that an applicant or licensee:
(c) has engaged in dishonest or illegal practices in or connected with the practice of veterinary medicine;

V.

The Texas Veterinary Licensing Act, Article 7465a, Vernon’s Annotated Texas Statutes, Section 14 (c), (e) and (f) gives the Texas State Board of Veterinary Medical Examiners grounds to take disciplinary action against Dr. McBride’s veterinary license, which states:

"... the Board may revoke or suspend a license, place a person whose license has been suspended on probation, or reprimand a licensee, ... if it find that an applicant or licensee:
(c) has engaged in dishonest or illegal practices in or connected with the practice of veterinary medicine;
(e) 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 the law, or
(f) has permitted or allowed another to use his license, or certificate to practice veterinary medicine in this state, for the purpose of treating, or offering to treat, sick, injured or afflicted animals."

The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this thirteenth day of December, 1986.
Further, Affiant sayeth not.

THOMAS CHERISH, Affiant

SUBSCRIBED and SWORN TO before me by the said THOMAS CHERISH, this the 31st day of December, 1986.

JUDY C. SMITH, Notary Public in and for Texas

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. DAN EDWARD McBRIDE, D.V.M., under Docket Number 1987-8, this the 31st day of December, 1986.

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