DOCKET NO. 1997-21

IN THE MATTER OF THE LICENSE OF § TEXAS STATE BOARD OF
DONALD L. ROSS, D.V.M. § VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this the 26th day of February, 1998, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board"), the matter of the license of DONALD L. ROSS, DVM, ("Respondent" or "Dr. ROSS"). Pursuant to the Veterinary Licensing Act ("Act") § 18F and the Board Rules of Disciplinary Procedure 575.27, on August 22, 1997, Respondent appeared in person, at an Informal Conference in response to a letter of invitation from the Board. The Board was represented at the Informal Conference by the Enforcement Committee.

Respondent wishes to waive a formal adjudicative hearing and to enter into this Agreed Order. In waiving an adjudicative hearing Respondent acknowledges understanding of the alleged violations and the adequacy and sufficiency of the notice provided to him.

Upon recommendation of the Enforcement Committee, and with Respondent’s consent, the Board makes the following findings of fact and conclusions of law and enters this Agreed Order as set forth below:

Findings of Fact

1. Donald L. Ross, DVM, is a veterinarian licensed by the Board to practice veterinary medicine in the state of Texas under license number 2551, 1997 renewal certificate number 1608. Respondent is not subject to prior disciplinary action by the Board.
2. The Board has jurisdiction over the subject matter and Respondent. Respondent has received all notice which may be required by law and by the Board Rules. All jurisdictional requirements have been satisfied.
3. On or about January 14, 1996, Jan & Mary Feldhausen, Houston, Texas took their dog "Hazel" a seven year old female, Chesapeake Retriever mix breed dog, to Southwest Freeway Pet Vet Hospital (SWFPVH), Houston, Texas, for dental work and to have a cyst removed from the animal’s back.
4. On or about January 14, 1996, "Hazel" was examined by Dr. Donald L. Ross, SWFPVH, Houston, Texas. "Hazel" was anesthetized and "debarked" (vocal chords cut) by Dr. Ross. The error was noted immediately and the records annotated. The dental procedure and removal of the cyst were accomplished without incident.

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Mr. Feldhausen was notified by telephone of the error. A written statement was provided to Mr. Feldhausen by Dr. Ross advising him that the error occurred.

5. Dr. Ross has assumed full responsibility for his actions and stated there was no excuse for the mistake of cutting "Hazel's" vocal chords. He claims that there was no intent to do anything other than provide the requested service in a professional manner. All charges were canceled for services rendered.

6. Upon inspection by the Board, the patient records of "Hazel" created and maintained by Dr. Ross did not contain an entry for the presurgical temperature of the patient prior to the above described surgery. In addition, these medical records did not contain entries for the medications administered, the strength of said medications, and the route of administration for medications used for the above surgery.

Conclusions of Law

1. Respondent is required to comply with the provision of the Act and Board Rules.

2. Act §14 (a) of the Act authorizes the Board to revoke or suspend a license, impose a civil penalty, place a licensee on probation, or reprimand a licensee based upon findings of non-compliance with the Act or Board Rules.

3. Based on Findings of Fact 3 through 5, Respondent has violated Rule 573.22 by accidently cutting the vocal chords of "Hazel", a seven year old female, Chesapeake Retriever dog.

4. Based on Findings of Fact 3 through 5, Respondent has violated the Act §14 (a)(11) by performing or prescribing unnecessary or unauthorized treatment.

5. Based on Findings of Fact 6, Respondent has violated Rule 573.52 by failing to properly annotate the animal's medical records to show presurgical temperature, medications administered, strength, and route of administration.

6. Based on Findings of Fact 3 through 6, Respondent has violated Act § 14 (a) (5) for engaging in practices or conduct in connection with the practice of veterinary medicine which were violative of the standards of professional conduct duly promulgated by the Board.

7. Based on any one of the Conclusions of Law 3, 4, 5, and 6 Respondent is subject to disciplinary action by the Board under Act § 14 (a).

Based on the above finding of fact and conclusions of law, the Board ORDERS that Dr. Ross receive an OFFICIAL REPRIMAND under the following terms and conditions:

2. Respondent shall immediately notify the Board of any circumstances which occur after the date of the Order and constitute a breach of his condition of probation. Respondent shall cooperate with its attorneys, investigators, compliance officers and other employees and agents, to verify that respondent has complied and is in compliance with the order.

3. Failure by Respondent to comply with the terms of this Agreed Order or with all other provisions of the Act or the Board Rules, may result in further disciplinary action.

Respondent, Donald L. Ross, DVM, by signing this Agreed Order, agrees to the terms of this order, and acknowledges his understanding of the order and the notice, the findings of fact and conclusions of law herein set forth in the Agreed Order and agrees that he will satisfactorily comply with the mandates of the Agreed Order in a timely manner or be subject to appropriate disciplinary action of the Board.

Respondent, Donald L. Ross, DVM, by signing this Agreed Order waives his right to a formal hearing and any right to seek judicial review of this Agreed Order.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. NOTHING IN THIS ORDER SHALL BE DEEMED A WAIVER OF RESPONDENT'S RIGHTS UNDER STATUTE OR THE UNITED STATES OR TEXAS CONSTITUTIONS TO APPEAL AN ORDER OR ACTION OF THE BOARD SUBSEQUENT TO THIS AGREED ORDER EXCEPT AS RESPONDENT MAY HAVE OTHERWISE AGREED TO HEREIN. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

The date of this Agreed Order shall be the date it is adopted by the Texas State Board of Veterinary Medical Examiners.

I, DONALD L. ROSS, DVM, HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.


Donald L. Ross

DONALD L. ROSS, DVM
RESPONDENT
STATE OF TEXAS
COUNTY OF Harris

Before Me, Donald Ross, on this day personally appeared Donald L. Ross, DVM, known to me to be the person whose name is subscribed to the foregoing Agreed Order, and acknowledged to me that he executed the same for the purpose stated therein.

Given under my hand and seal of office this 28th day of November, 1997.

(Seal)

Notary Public

This agreed order has been entered between Dr. Donald L. Ross and Ron Allen, the Executive Director of the Texas State Board of Veterinary Medical Examiners, in concurrence with the Board Secretary. It is presented to the Board as a recommendation only.

Ron Allen, Executive Director, TSBVME

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on the 16th day of February, 1998.

Michael J. McCulloch, D.V.M., President
DOCKETED COMPLAINT NO. 1997-21

TEXAS STATE BOARD OF VETERINARY §  TEXAS VETERINARY MEDICAL
MEDICAL EXAMINERS §  LICENSE NO. 2551

vs.

DONALD L. ROSS, DVM §  1997 RENEWAL CERTIFICATE
§  NUMBER 1608

COMPLAINT AFFIDAVIT

Before me, the undersigned authority, a Notary Public in and for Texas, on this day personally appeared Charles Adkins, who after being duly sworn, did depose and say:

On or about February 10, 1997, Charles Adkins, being an employee of the Texas State Board of Veterinary Medical Examiners, did in the course of such employment, make certain investigations into the professional conduct of one Donald L. Ross, D.V.M., 9695 S.W. Freeway, Houston, Texas, 77074, Veterinary License Number 2551, 1997, Renewal Certificate Number 0888, a practitioner of veterinary medicine in the State of Texas. As an employee of the Texas State Board of Veterinary Medical Examiners, I, Charles Adkins, do hereby present the following complaint against Donald L. Ross, DVM.

I. On or about January 14, 1996, Jan & Mary Feldhausen, Houston, Texas, took their dog "Hazel", a seven year old female, Chesapeake Retriever mix breed dog, to Southwest Freeway Pet Vet Hospital (SWFPVH), Houston, Texas, for dental work and to have a cyst removed from the animal's back.

II. On or about January 14, 1996, "Hazel" was examined by Dr. Donald L. Ross, SWFPVH, Houston, Texas. "Hazel" was anesthetized and "debarked" (vocal chords cut) by Dr. Ross. The error was noted immediately and the records annotated. The dental procedure and removal of the cyst were accomplished without incident. Mr. Feldhausen was notified by telephone of the error. A written statement was provided to Mr. Feldhausen by Dr. Ross advising him that the error occurred.

III. Dr. Ross has assumed full responsibility for his actions and stated there was no excuse for the mistake of cutting "Hazel's" vocal chords. He claims that there was no intent to do anything other than provide the requested service in a professional manner. All fees were canceled for services rendered.

IV. Upon inspection by the Board, the patient records of "Hazel" created and maintained by Dr. Ross did not contain an entry for the presurgical temperature of the patient prior to the above described surgery. In addition, these medical records did not contain entries for the medications administered, the strength of said medications, and the route of administration for medications used for the above described surgery.

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V.
Based on paragraphs II and III, Dr. Ross violated Rule 573.22 - Professional Standard of Humane Treatment of the Rules of Professional Conduct.

VI.
Based on the above in paragraph V, Dr. Ross also violated Section 14 (a) (11) of the Veterinary Licensing Act, article 8890.

ARTICLE 8890, SECTION 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 licensee ... if it finds that a licensee:

(11) has performed or prescribed unnecessary or unauthorized treatment.

VII
Based on paragraph IV, Dr. Ross violated Rule 573.52 - Patient Record Keeping, of the Rules of Professional Conduct.

VIII
Based on the above in paragraph V & VII, Dr. Ross also violated Section 14(a)(5) of the Veterinary Licensing Act, article 8890.

The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the 5th day of November, 1997.

Further, Affiant sayeth not.

Charles Adkins Affiant

SUBSCRIBED and SWORN TO before me by the said Charles Adkins this the 5th day of November, 1997

Mike Carroll, Notary Public
STATE OF TEXAS
My Comm. Exp. 12-21-98

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. Donald L. Ross, D.V.M. under Docketed Number 1997-21, this the 14th day of June, 1997.

Howard M. Head, DVM, Board Secretary
Texas State Board of Veterinary Medical Examiners