

IN THE MATTER OF THE LICENSE OF § TEXAS STATE BOARD OF  
BENJAMIN H. CARROLL, JR., D.V.M. § VETERINARY MEDICAL EXAMINERS

**AGREED ORDER**

On this the 4th day of February, 1999, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board"), the matter of the license of BENJAMIN H. CARROLL, JR., D.V.M., ("Respondent" or "Dr. Carroll"), pursuant to the Veterinary Licensing Act ("Act") § 18F and Board Rule 575.27. On December 17, 1998, 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, without admitting the truth of the findings and conclusions set out in this Agreed Order, wishes to waive a formal adjudicative hearing and thereby informally dispose of the issues without a formal adjudication. Respondent agrees to comply with the terms and conditions set forth in 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. Benjamin H. Carroll, Jr., D.V.M., is a veterinarian licensed by the Board to practice veterinary medicine in the state of Texas under license number 3382, 1998 renewal certificate number 2354. 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 May 11, 1998, Candy V. Ballinger, at that time an employee of Benjamin Hollis Carroll, Jr., D.V.M., at the Royal Highlands Animal Clinic in Dallas, Texas, observed two

other employees, Kim Wilson and Cindy Cully, RVT, standing over a patient cat, "Jak," in the surgery room. Ms. Wilson and Ms. Cully were employed as technicians at the clinic. Dr. Carroll was also present in the surgery room.

4. On or about the same day, Ms. Ballinger engaged in conversation with Ms. Wilson, and inquired of Ms. Wilson about her earlier observation in the surgery room. Ms. Wilson told Ms. Ballinger that the technicians were performing a declaw on "Jak."

5. On or about June 11, 1998, Dr. Carroll stated to the Board's investigator by letter that he had instructed Ms. Cully and Ms. Wilson in the procedures for declawing and permitted them to perform the procedure on two occasions while he was present and directly supervised. Dr. Carroll further stated that he removed the authorization immediately after being informed by the Board that technicians were not authorized to perform surgical procedures such as declaws.

6. Pursuant to a request from the Board, Dr. Carroll submitted the patient records for "Jak." The patient record did not contain the weight, temperature, or strength and route of administration of medications employed.

### **Conclusions of Law**

1. Respondent is required to comply with the provision of the Act and Board Rules.
2. Section 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 Facts 3 through 5, Respondent has violated Rule 573.10 - Supervision of Non-Licensed Employees, of the Rules of Professional Conduct.
4. Based on the Finding of Facts 3 through 5, Respondent has violated Rule 573.11- Discouragement of Unauthorized Practice, of the Rules of Professional Conduct.
5. Based on the Findings of Fact 6, Respondent has violated Rule 573.52 - Patient Record Keeping.
6. Based on the Findings of Facts 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 the Act §14(a).

**NOW THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:**

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Dr. Benjamin H. Carroll, Jr., receive an OFFICIAL REPRIMAND under the following terms and conditions:

1. Respondent shall pay an administrative penalty in the amount of \$250.00, payable within forty-five (45) days of the Board's approval of the Agreed Order.
2. Take and pass jurisprudence exam within 45 days of the Board's Approval of the Agreed Order.
3. Respondent shall abide by the Rules of Professional Conduct, the Texas Veterinary Licensing Act and the laws of the State of Texas and the United States.
4. Respondent Shall cooperate with the Board's attorneys, investigators, compliance officers and other employees and agents investigating Respondent's compliance with this order.
5. Failure by Respondent to comply with the terms of this Agreed Order or with any other provisions of the Act or the Board Rules, may result in further disciplinary action.

Respondent, Benjamin H. Carroll, Jr., D.V.M., by signing this Agreed Order, acknowledges his understanding of the Agreed Order, the notice, Findings of Fact and Conclusions of Law herein set forth, 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, Benjamin H. Carroll, Jr., D.V.M., by signing this Agreed Order, waives his right to a formal hearing and any right to seek judicial review of this Agreed Order. Respondent acknowledges that he is entitled to be represented by an attorney of Respondent's choice at his expense. Respondent has voluntarily represented his self.

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 UNDER 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, BENJAMIN H. CARROLL, JR., D.V.M., 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.

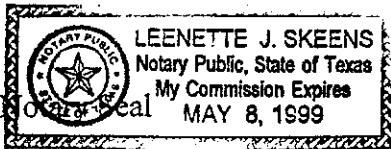
*Benjamin H. Carroll Jr. D.V.M.*  
BENJAMIN H. CARROLL, JR., D.V.M.  
Respondent

1/14, 1999  
DATE

STATE OF TEXAS §  
COUNTY OF Dallas §

BEFORE ME, on this day, personally appeared Benjamin H. Carroll, Jr., D.V.M., 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 purposes stated therein.

Given under the hand and seal of office this 14 day of Jan., 1999.



*Leenette J. Skeens*  
Notary Public

This agreed order has been entered between Dr. Benjamin H. Carroll, Jr., 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*  
RON ALLEN  
Executive Director, TSBVME

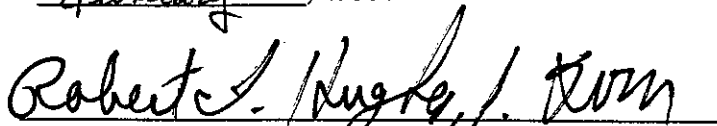
January 19, 1999  
DATE

Benjamin H. Carroll, Jr., D.V.M.

Docket No.: 1999-03

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SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL  
EXAMINERS on this the 7th day of February, 1999.

A handwritten signature in cursive script, reading "Robert I. Hughes, Jr.", written over a horizontal line.

Robert I. Hughes, Jr., D.V.M.

President

DOCKETED COMPLAINT NO. 1999-03

TEXAS STATE BOARD OF VETERINARY	§	TEXAS VETERINARY MEDICAL
MEDICAL EXAMINERS	§	LICENSE NO. 3382
vs.	§	1998 RENEWAL CERTIFICATE
BENJAMIN H. CARROLL, JR., D.V.M.	§	NUMBER 2354

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 June 11, 1998, 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 Benjamin H. Carroll, Jr., D.V.M., Royal Highlands Animal Clinic, 10098 Royal Lane, Dallas, Texas, 75041, Veterinary License Number 3382, 1998 Renewal Certificate Number 2354, 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 Benjamin H. Carroll, Jr., D.V.M.

I.

On or about May 11, 1998, Candy V. Ballinger, at that time an employee of Benjamin Hollis Carroll, Jr., D.V.M., at Royal Highlands Animal Clinic in Dallas, Texas, observed two other employees, Kim Wilson and Cindy Cully, RVT, standing over a patient cat, "Jak," in the surgery room. Ms. Wilson and Ms. Cully were employed as technicians at the clinic. Dr. Carroll was also present in the surgery room.

II.

On or about that same day, Ms. Ballinger engaged in conversation with Ms. Wilson, and inquired of Ms. Wilson about her earlier observation in the surgery room. Ms. Wilson told Ms. Ballinger that the technicians were performing a declaw on "Jak."

III.

On or about June 11, 1998, Dr. Carroll stated to the Board's investigator by letter that he had instructed Ms. Cully and Ms. Wilson in the procedures for declawing and permitted them to perform the procedure on two occasions while he was present and directly supervised. Dr. Carroll further stated that he removed the authorization immediately after being informed by the Board that technicians were not authorized to perform surgical procedures such as declaws.

IV.

Pursuant to a request from the Board, Dr. Carroll submitted the patient records for "Jak." The patient record did not contain the weight, temperature, or strength and route of administration of medications employed.

V.

Based on paragraphs I through III, Dr. Carroll violated Rule 573.10 - Supervision of Non-Licensed Employees, of the Rules of Professional Conduct.

VI.

Based on paragraphs I through III, Dr. Carroll, violated Rule 573.11 - Discouragement of Unauthorized Practice, of the Rules of Professional Conduct.

VII.

Based on Paragraph IV, Dr. Carroll, violated Rule 573.52 - Patient Record Keeping.

VIII.

Based on the above in paragraphs V through VII, Dr. Carroll also violated Section 14 (a) (5) 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:

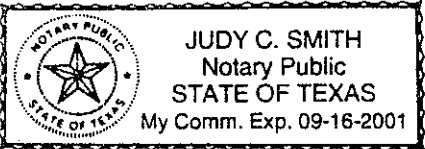
- (5) has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with the law;

The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the 23rd day of FEBRUARY, 1999.

Further, Affiant sayeth not.

Charles Adkins  
Charles Adkins, Affiant

SUBSCRIBED and SWORN TO before me by the said Charles Adkins this the 23rd day of February, 1999.



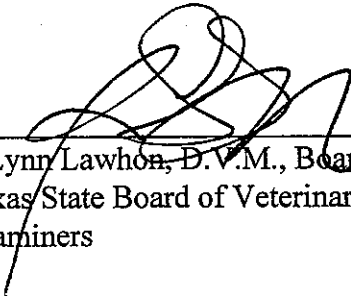
Judy C. Smith  
Judy Smith, Notary Public in and for Texas

Benjamin H. Carroll, Jr., DVM

Docketed Case No.: 1999-03

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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. Benjamin H. Carroll, Jr., D.V.M. under Docketed Number 1999-03, this the 4<sup>th</sup> day of March, 1999.



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J. Lynn Lawhon, D.V.M., Board Secretary  
Texas State Board of Veterinary Medical  
Examiners