

4. Respondent sold Mr. Schreibvogel eight bottles of Baytril Injectable and one bottle of Droncit tablets, both prescription drugs, without examining any animals.
5. Receipts from respondent verify that six bottles of Baytril Injectable were sold to Mr. Schreibvogel between March 18, 1994 and September 10, 1994.
6. Receipts from respondent verify that eighteen and one half Droncit Canine tablets were sold to Mr. Schreibvogel between April 15, 1994 and October 5, 1994.
7. On or about June 4, 1996, an on-sight Board investigation of respondent's clinic disclosed that he did not have patient records to support the existence of a client/patient relationship between animals owned by Mr. Schreibvogel prior to his sale of prescription drugs to Mr. Schreibvogel.
8. On or about June 5, 1996, the Board contacted Mr. Schreibvogel, who furnished the Board with four containers, which did or had contained prescription drugs. The containers all bore labels from the respondent.
9. The labels on all four containers indicated that they were dispensed to Pet Safari. No client or patient names or species were listed on any of the containers. Two containers labeled "Gentocin Ophthalmic" were marked "for in store use only" on the label. One of the containers did not have the amount of medication or date dispensed on the label.

Conclusions of Law

1. Respondent is required to comply with the provisions of the Act and Board Rules.
2. Act § 14 (a) 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 6, Respondent has violated Rule 573.41 by failing to establish a proper veterinary/client/patient relationship prior to dispensing prescription drugs
4. Based on Finding of Fact 7, Respondent has violated Rule 573.52 by failing to properly maintain patient records.
5. Based on Finding of Fact 8 and 9, Respondent has violated Rule 573.40 by failing to properly label prescription drugs dispensed.

6. Based on Findings of Fact 4 through 9, Respondent has violated Act § 14 (a) (5) by 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 Conclusions of Law 3 through 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. Diffily receive an OFFICIAL REPRIMAND under the following terms and conditions:

1. Respondent shall pay an Administrative Penalty in the amount of \$500 payable within forty-five (45) days of Board approval of this Agreed Order.
2. Respondent must take and pass the State Board Jurisprudence Examination within forty-five (45) days of Board approval of this Agreed Order.
3. Respondent must not engage in the practice of Veterinary Medicine with any retail business selling pets and/or other animals for a period of two years from Board approval of this Agreed Order.
4. Respondent shall abide by the Rules of Professional Conduct, Texas Veterinary Licensing Act and Laws of the State of Texas and the United States.
5. Respondent shall cooperate with the Board, its attorneys, investigators, compliance officers and other employees and agents, to verify that respondent has complied and is in compliance with the order.
6. 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, Jefferson P. Diffily, DVM, by signing this Agreed Order, agrees to its terms, acknowledges his understanding of it and the notice, findings of fact and conclusions of law set forth in the Agreed Order and agrees 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, Jefferson P. Diffily, 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, JEFFERSON P. DIFFILY, DVM, HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, 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.

DATED: 9-10, 1997.



JEFFERSON P. DIFFILY, DVM
RESPONDENT

STATE OF TEXAS
COUNTY OF TARRANT

BEFORE ME, on this day personally appeared Jefferson P. Diffily, DVM, known to me, who, first being duly sworn, signed the foregoing Agreed Order in my presence.
SIGNED on this 10th day of Sept, 1997.



Notary Seal


Notary Public, in and for the State of Texas

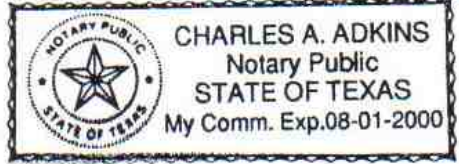
This agreed order has been entered between Dr. Jefferson P. Diffily and Ron Allen, the Executive Director of the Texas State Board of Veterinary Medical Examiners, in concurrence with the Board Secretary. It is presented to the Board as a recommendation only.



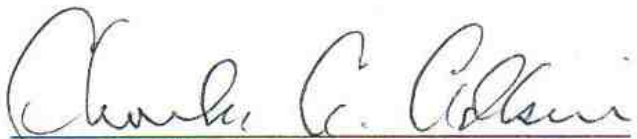
RON ALLEN, Executive Director, TSBVME

STATE OF TEXAS
COUNTY OF TRAVIS

BEFORE ME, on this day personally appeared Ron Allen, known to me, who, first being duly sworn, signed in agreement to the foregoing Agreed Order in my presence.
SIGNED on this 16th day of SEPTEMBER, 1997



Notary Seal



Notary Public, in and for the State of Texas

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this ____ day of _____, 1997.



James N. Gomez, D.V.M., President

TEXAS STATE BOARD OF VETERINARY	§	TEXAS VETERINARY MEDICAL
MEDICAL EXAMINERS	§	LICENSE NO. 6610
vs.	§	1997 RENEWAL CERTIFICATE
JEFFERSON P. DIFFILY, DVM	§	NUMBER 5254+P

COMPLAINT AFFIDAVIT

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

I, Mike Carroll, an employee of the Texas State Board of Veterinary Medical Examiners ("Board"), investigated the professional conduct of one Jefferson P. Diffily, D.V.M., 411 Fielder North Plaza, Arlington, Texas 76012, Veterinary License Number 6610, 1997 Renewal Certificate Number 5254+P, a practitioner of veterinary medicine in the State of Texas, on or about May 29, 1996.

I, Mike Carroll, on behalf of the Board, present the following complaint against Jefferson P. Diffily, D.V.M., based on alleged violations of the Veterinary Licensing Act, Tex. Rev. Civ. Stat. art. 8890 ("Act"), and the Board's Rules of Professional Conduct ("Board Rules"):

I.

On or about March 18, 1994, and from time to time thereafter until on or about September 27, 1995, Joe Schreibvogel purchased medication and prescription drugs from Dr. Jefferson Diffily, Fielder North Animal Clinic, 411 Fielder North Plaza, Arlington, Texas, for use in his pet store, Pet Safari, 542 Fielder North Plaza, Arlington, Texas, at his discretion. Dr. Diffily, on several occasions failed to examine animals owned by Mr. Schreibvogel or his pet store.

II.

Dr. Diffily sold Mr. Schreibvogel eight bottles of Baytril Injectable and one bottle of Droncit tablets, both prescription drugs, without examining any animals.

III.

Receipts from Dr. Diffily verify that six bottles of Baytril Injectable were sold to Mr. Schreibvogel between March 18, 1994 and September 10, 1994.

IV.

Receipts from Dr. Diffily verify that eighteen and one half Droncit Canine tablets were sold to Mr. Schreibvogel between April 15, 1994 and October 5, 1994.

V.

On or about June 4, 1996, an on-sight Board investigation of Dr. Diffily's clinic disclosed that he did not have patient records to support the existence of a client/patient relationship between animals owned by Mr. Schreibvogel prior to his sale of prescription drugs to Mr. Schreibvogel.

VI.

On or about June 5, 1996, the Board contacted Mr. Schreiber, who furnished the Board with four containers, which did or had contained prescription drugs. The containers all bore labels from Dr. Diffily.

VII.

The labels on all four containers indicated that they were dispensed to Pet Safari. No client or patient names or species were listed on any of the containers. Two containers labeled "Gentocin Ophthalmic" were marked "for in store use only" on the label. One of the containers did not have the amount of medication or date dispensed on the label.

VIII.

Based on the above, it is alleged Respondent has violated Rule 573.41 - Use of Prescription Drugs, Rule 573.52 - Patient Record Keeping, and Rule 573.40 - Labeling of Medications Dispensed of the Rules of Professional Conduct.

IX.


Based on the above, it is alleged Respondent has violated Act § 14 (a) (5).

Act § 14 (a) authorizes the Board to "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;

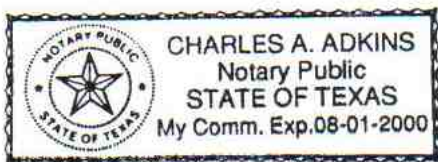
The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the 18TH day of AUGUST 1997.


Further, Affiant sayeth not.



Mike Carroll, Affiant

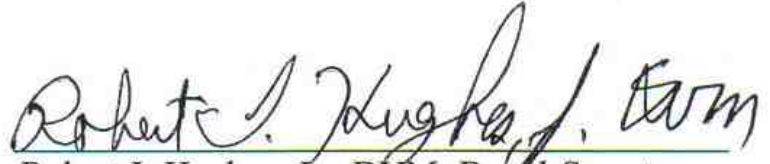
SUBSCRIBED and SWORN TO before me by the said Mike Carroll this the 18TH day of AUGUST, 1997.





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. Jefferson P. Diffily, D.V.M. under Docketed Number 1997-16 this the 21ST day of AUGUST 1997.



Robert I. Hughes, Jr., DVM, Board Secretary
Texas State Board of Veterinary Medical Examiners