

escape from the examination area. In an attempt to stop the horse, Dr. Donnell swung a twitch at the horse's face. The twitch struck the horse's right eye. Dr. Donnell did not intend to strike "Vesterific's" eye. Dr. Donnell examined the injured eye and found the anterior chamber filled with blood. The lens from the eye was found on the floor with a large amount of vitreous fluid. Dr. Donnell administered first aid and referred the horse to Dr. Robert J. Munger, Diplomate, Animal Ophthalmology Clinic (AOC), Dallas, Texas. Ms. Osborne was advised of the incident by Dr. Donnell.

5. On or about October 8, 1996, Dr. Munger, AOC, Dallas, Texas, examined "Vesterific". Dr. Munger's examination disclosed that the horse's right eye sustained a severe scleral laceration and partial collapse of the globe with lens and vitreal extrusion. The prognosis was poor for vision in the right eye. In the opinion of Dr. Munger, the right eye would never regain vision and in time would atrophy.

6. The acts and/or failures to act alleged in paragraph 4 do not constitute the exercise of the same degree of humane care, skill and diligence in treating patients as is ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in Pilot Point, Texas or similar community.

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 Fact 4 through 6, Respondent has violated Rule 573.22 by blinding "Vesterific", a four year old gelding, in the right eye.
4. Based on Findings of Fact 4 through 6, Respondent has violated the Act §14 (a) (5) by engaging 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 law.
5. Based on any one of the Conclusions of Law 3 and 4, Respondent is subject to disciplinary action by the Board under Act § 14 (a).

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

1. Respondent shall abide by the Rules of Professional Conduct, the Texas Veterinary Licensing Act and Laws of the State of Texas and the United States.
2. Respondent shall cooperate with the Board's attorneys, investigators, compliance officers and other employees and agents investigating the respondent's compliance with the Agreed Order.
3. 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, Alan D. Donnell, 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, Alan D. Donnell, 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, ALAN D. DONNELL, 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.

DATED

 1998. 2/4/98



ALAN D. DONNELL, DVM
RESPONDENT

STATE OF TEXAS §
COUNTY OF Hentou §

Before Me, Jeri Foster, on this day personally appeared Alan D. Donnell, 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 24th day of February, 1998.



Jeri L. Foster
Notary Public

This agreed order has been entered between Dr. Alan D. Donnell 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

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on the 26th day of February, 1998.

Michael J. McCulloch
Michael J. McCulloch, D.V.M., President

DOCKETED COMPLAINT NO. 1998-02

TEXAS STATE BOARD OF VETERINARY	§	TEXAS VETERINARY MEDICAL
MEDICAL EXAMINERS	§	LICENSE NO. 5468
vs.	§	1997 RENEWAL CERTIFICATE
ALAN D. DONNELL, DVM	§	NUMBER 4507

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 24, 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 Alan D. Donnell, D.V.M., 189 FM Rd., 455 West, Pilot Point, Texas, 76258, Veterinary License Number 5468, 1997, Renewal Certificate Number 4507, 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 Alan D. Donnell, DVM.

I.

On or about October 7, 1996, "Vesterific" a four year old gelding owned by Ms. Susan B. Osborne, Redstone Farm, Pilot Point, Texas, was taken by Russell Harris, a trainer for Mark Shaffer Show Horses, Pilot Point, Texas, to La Mesa Veterinary Associates (LMVA), Pilot Point, Texas, for fluoroscope examination. "Vesterific" was being trained at the Mark Shaffer Show Horses Facility.

II.

On or about October 7, 1996, "Vesterific" was examined by Dr. Alan D. Donnell, LMVA, Pilot Point, Texas. During the examination the horse began kicking violently and attempted to escape from the examination area. In an attempt to stop the horse, Dr. Donnell swung a twitch at the horse's face. The twitch struck the horse's right eye. Dr. Donnell did not intend to strike "Vesterific's" eye. Dr. Donnell examined the injured eye and found the anterior chamber filled with blood. The lens from the eye was found on the floor with a large amount of vitreous fluid. Dr. Donnell administered first aid and referred the horse to Dr. Robert J. Munger, Diplomate, Animal Ophthalmology Clinic (AOC), Dallas, Texas. Ms. Osborne was advised of the incident by Dr. Donnell.

III.

On or October 8, 1996, Dr. Munger, AOC, Dallas, Texas, examined "Vesterific". Dr. Munger's examination disclosed that the horse's right eye sustained a severe scleral laceration and partial collapse of the globe with lens and vitreal extrusion. The prognosis was poor for vision in the right eye. In the opinion of Dr. Munger, the right eye would never regain vision and in time would atrophy.

IV.

The acts and/or failures to act alleged in paragraph II do not constitute the exercise of the same degree of humane care, skill and diligence in treating patients as is ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in Pilot Point, Texas or similar community.

V.

Based on the allegations in paragraphs II and IV, Dr. Donnell violated Rule 573.22 - Professional Standard of Humane Treatment of the Rules of Professional Conduct.

VI.

Based on the above allegations in paragraph V, Dr. Donnell 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:

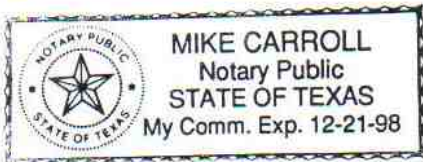
(5) has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with law.

The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the 23RD day of DECEMBER, 1997.

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 DECEMBER, 1997



Mike Carroll
Mike Carroll, 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. Alan D. Donnell, D.V.M. under Docketed Number 1998-02, this the 31ST day of Dec, 1997.

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