

DOCKETED COMPLAINT NO. 1991-11

TEXAS STATE BOARD OF VETERINARY	()	TEXAS VETERINARY MEDICAL
MEDICAL EXAMINERS	()	LICENSE NO. 2186
vs.	()	1990 RENEWAL CERTIFICATE
E. E. EPPERSON, D.V.M.	()	NUMBER 2956

FINDINGS, CONCLUSIONS AND ORDERS OF THE BOARD

On the 3rd day of October, 1991, the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS, being in regular meeting in the 4th floor Conference Room 1946 South IH-35, Austin, Travis 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 E. E. EPPERSON, D.V.M., having been duly notified and the following members of the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS being present:

Dr. Robert D. Lewis, President	of Elgin, TX
Dr. Mary E. Mainster, Vice President-Recused	of San Antonio, TX
Dr. Guy A. Sheppard, Secretary	of San Angelo, TX
Dr. Larry M. Dubuisson, Member	of Weslaco, TX
Ms. Olivia Eudaly, Member	of Fort Worth, TX
Mr. Mike Levi, Member	of Spicewood TX
Mr. Clark S. Willingham, Member	of Dallas, TX

At the appointed hour, the President of the Board, DR. ROBERT D. LEWIS ordered the case to proceed at which time it was ascertained that E. E. Epperson, D.V.M. was present, and not represented by legal counsel; the Board then proceeded to hear the evidence presented by the State, and on the same day, October 3, 1991, all of the above members of said Board being present and participating with the exception of the Dr. Mary Mainster, makes the following findings:

FINDINGS OF FACT

I.

E. E. EPPERSON, D.V.M. is a doctor of veterinary medicine, licensed to practice veterinary medicine in the State of Texas under License Number 2186, and 1990 Renewal Certificate Number 2956.

II.

Dr. Epperson received notice of this hearing on or about August 14, 1991.

III.

On or about July 2, 1989, Mrs. Natalie Chelkowski presented her three cats to Respondent's clinic for treatment of tapeworms only and upon return to Respondent's clinic on or about July 3, 1989, discovered Respondent had anesthetized the cats with Rompun and Ketamine; had "dipped" the cats; and, cleaned the teeth on two of the cats; all without informing Dr. or Mrs. Chelkowski of his planned treatment and without obtaining their permission.

IV.

Respondent released the cats on or about July 3, 1989, to the owners, in a heavily sedated state without instructions as to their care.

V.

Upon releasing the cats on July 3, 1989, Respondent charged Dr. & Mrs. Chelkowski for the treatment of deworming the cats, but had failed to provide the treatment and when the client returned to the office for the medication, Respondent dispensed Droncit tablets with no instructions as to the administration of the medication.

VI.

Respondent was unable to furnish copies of patient records concerning the treatment of Dr. & Mrs. Chelkowski's cats as required by Board rule.

VII.

On or about December 22, 1989, Mrs. Debbie Judd presented her cat "Punkin" to Respondent's clinic for examination of the right front paw which had been chronically inflamed and/or sore since Respondent examined the cat on February 18, 1989, and following exploratory surgery, Respondent released "Punkin" in a semiconscious condition, with no instructions or information as to what was to be expected during "Punkin's" recovery.

VIII.

Respondent failed to maintain adequate patient records reflecting treatments provided to Mrs. Judd's cat as required by Board rule.

IX.

On or about June 4, 1990, Ms. Cynthia Warren presented her 8 month old Pekingese "Yoda" to Respondent's clinic for treatment of sores on the left hind quarter which Respondent diagnosed as "hot spots" and anesthetized the dog with a mixture of Ketamine, Rompun, Atropine and Acepromazine and proceeded to treat the sores.

X.

Respondent released the unconscious dog with no instructions as to what to expect during recovery, and that the dog died later the next day.

XI.

Respondent failed to maintain patient records on the treatment of "Yoda" and advised Board Investigator Matthew Wendel that he had thrown the records in the trash.

CONCLUSIONS OF LAW

I.

By performing the unauthorized services as outlined in Paragraph III without informing Dr. or Mrs. Chelkowski, nor obtaining their permission, Respondent has violated Article 8890, Section 14a (5), (11) and rules 573.20 and 573.26 of the Rules of Professional Conduct.

II.

By releasing the three cats to Dr. & Mrs. Chelkowski in a heavily sedated condition without any instructions as to their care as described in Paragraph IV, Respondent has violated Rule 573.20 of the Rules of Professional Conduct.

III.

By charging a fee for deworming the Chelkowski's cats, a service which was not performed, and dispensing the worm medication Droncit without instructions concerning its administration, as described in Paragraph V, Respondent has violated rules 573.20 and 573.26 of the Rules of Professional Conduct.

IV.

Through failure to maintain patient records reflecting the treatment of Dr. & Mrs. Chelkowski's cats as described in Paragraph VI, Respondent has violated Rule 573.52 of the Rules of Professional Conduct.

V.

By releasing Ms. Judd's cat, "Punkin", in the semiconscious condition without any information as to what Ms. Judd should anticipate during the cat's recovery as described in Paragraph VII, Respondent has violated Rule 573.20 of the Rules of Professional Conduct.

VI.

By failing to maintain adequate patient records reflecting treatments provided to the cat "Punkin" owned by Ms. Debbie Judd as described in Paragraph VIII, Respondent has violated Rule 573.52 of the Rules of Professional Conduct.

VII.

By releasing the unconscious dog, "Yoda" without instructions as described in Paragraph X, Respondent violated rule 573.20 of the Rules of Professional Conduct.

VIII.

By failing to maintain patient records concerning the treatment administered to Ms. Warren's dog as described in Paragraph XI, Respondent has violated Rule 573.52 of the Rules of Professional Conduct.

IX.

Through failure to adequately inform and instruct clients about treatment provided in treating patients as outlined in the preceding findings, thereby continuously violating rule 573.20 of the Rules of Professional Conduct; and through failure to maintain patient records as outlined in the preceding findings as required by Rule 573.52 of the Rules of Professional Conduct, Respondent has violated Article 8890, Veterinary Licensing Act, V.A.T.S., Section 14a(15).

X.

The Texas State Board of Veterinary Medical Examiners has grounds to take disciplinary action against Dr. Epperson's Veterinary License under Sections 14(a) and 14B of the Texas Veterinary Licensing Act, V.A.T.S., Article 8890, (formerly Article 7465a).

ORDERS

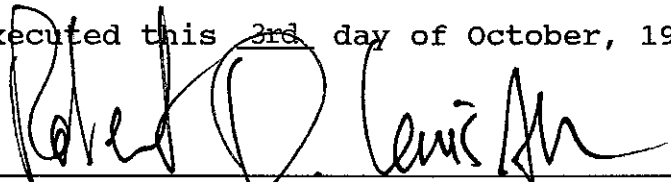
It is therefore ORDERED that License Number 2186 heretofore issued to E. E. EPPERSON, D.V.M. by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS be and same is hereby SUSPENDED for a period of five (5) years, with all but ninety (90) days being PROBATED. Respondent is Ordered to pay a civil penalty in the sum of \$2,500.00 within thirty (30) days of this Hearing. The ninety (90) day SUSPENSION is to be coordinated with Board staff and commence within ninety (90) day of this Hearing.

It is further ORDERED that each Finding of Fact found herein is hereby adopted as a Conclusion of Law and each Conclusion of Law is hereby adopted as a Finding of Fact.

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 3rd day October, 1991, in Austin, Travis 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 3rd day of October, 1991.



Robert D. Lewis, D.V.M., President

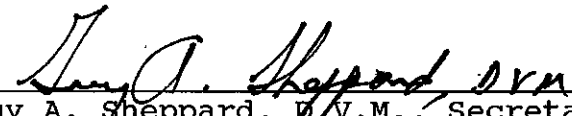
10/3/91

Date

(RECUSED)

Mary E. Mainster, D.V.M., Vice-President


Date



Guy A. Sheppard, D.V.M., Secretary

10/3/91

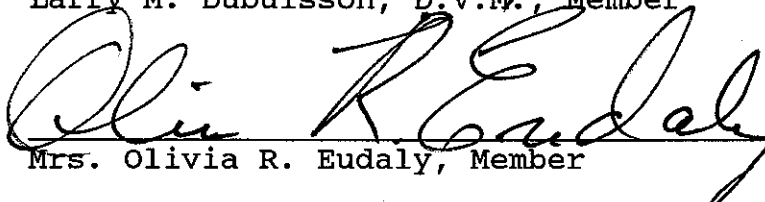
Date



Larry M. Dubuisson, D.V.M., Member

10/3/91

Date



Mrs. Olivia R. Eudaly, Member

10/3/91

Date

ABSENT

Alton F. Hopkins, Jr., D.V.M., Member

Date



Mr. Mike Levi, Member


10/3/91

Date

ABSENT

Fred K. Soifer, D.V.M., Member

Date



Mr. Clark S. Willingham, Member

10/3/91

Date

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E. E. EPPERSON, D.V.M.	()	NUMBER 2956

COMPLAINT AFFIDAVIT FORM

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

On or about January 23, 1990, Ernie M. Carroll, 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 E. E. EPPERSON, D.V.M., Ben White Animal Hospital, Inc., 2403 West Ben White Boulevard, Austin, Travis County, Texas, Veterinary License Number 2186, 1990 Renewal Certificate Number 2956, a practitioner of veterinary medicine in the State of Texas. As an employee of the Texas Board of Veterinary Medical Examiners, I, Ernie M. Carroll, do hereby present the following complaint against E. E. EPPERSON, D.V.M., who is hereinafter called Respondent.

I.

On or about July 2, 1989, Mrs. Natalie Chelkowski presented her three cats to Respondent's clinic for treatment of tapeworms and requested no other treatment. Upon return to Respondent's clinic on or about July 3, 1989, to pick up the cats, Dr. & Mrs. Chelkowski discovered Respondent had anesthetized the cats with Rompun and Ketamine; had "dipped" the cats; and, had cleaned the teeth on two of the cats; all without informing Dr. or Mrs. Chelkowski of his planned treatment and without obtaining their permission.

II.

Respondent released the cats on or about July 3, 1989, to the owners, in a heavily sedated state with no instructions as to their care.

III.

Upon releasing the cats on July 3, 1989, Respondent charged Dr. & Mrs. Chelkowski for the treatment of deworming the cats, but had failed to provide the treatment. The client returned to the office for the treatment at which time Respondent dispensed Droncit tablets with no instructions as to the administration of the medication.

IV.

Respondent was unable to furnish copies of patient records concerning the treatment of Dr. & Mrs. Chelkowski's cats as required by Board rule.

V.

On or about December 22, 1989, Mrs. Debbie Judd presented her cat "Punkin" to Respondent's clinic for examination of the right front paw which had been chronically inflamed and/or sore since Respondent examined the cat on

February 18, 1989, when he instructed the complainant to just wait and see if the sores go away. The Respondent had originally performed a declaw procedure on the cat on February 16, 1988. On December 22, 1989, Respondent performed exploratory surgery and removed two claws. He later told the client that "a portion" of claw had been left behind after the original surgery. After the surgery on December 22, 1989, Respondent released "Punkin" in a semiconscious condition. Respondent did not provide Mr. or Mrs. Judd with further instructions or information as to what was to be expected or not expected during "Punkin's" recovery.

VI.

Respondent did not administer, prescribe or dispense any antibiotics following the surgery of the paw. Subsequent to surgery the paw became infected and ultimately required surgical removal of a portion of the bones in the toes and part of the pads of the paw by a DVM other than the Respondent.

VII.

Respondent failed to maintain adequate patient records reflecting treatments provided to Mrs. Judd's cat as required by Board rule.

VIII.

On or about June 4, 1990, Ms. Cynthia Warren presented her 8 month old Pekingese "Yoda" to Respondent's clinic for treatment of sores on the left hind quarter which were diagnosed by Respondent as "hot spots". Respondent anesthetized the dog with a mixture of Ketamine, Rompun, Atropine and Acepromazine and proceeded to treat the sores.

IX.

Respondent then released the unconscious dog with no information as to what to expect or anticipate during "Yoda's" recovery. When informed the next day that the dog was foaming at the mouth and having difficulty breathing, Respondent informed Ms. Warren that this was normal for a dog coming out from under anesthesia and not to worry about it. The dog died later the same day.

X.

Respondent failed to maintain patient records on the treatment of "Yoda" as required by Board rule. Respondent advised Board Investigator Matthew Wendel that Respondent had thrown the records in the trash.

XI.

By performing the unauthorized services as outlined in Paragraph I without informing Dr. or Mrs. Chelkowski, nor obtaining their permission, Respondent has violated Article 8890, Section 14a (5), (11) and Rules 573.20 and 573.26 of the Rules of Professional Conduct which state:

Article 8890, Section 14a

". . . 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;

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

573.20 Responsibility For Acceptance of Medical Care

Veterinarians must decide what medical cases will be accepted in their professional capacity, and what course of treatment will be followed once a patient has been accepted. The responsibility for advising the client as to the treatment to be provided rests upon the veterinarian.

573.26, Honesty, Integrity, and Fair Dealing

Licensed veterinarians shall conduct their practice with honesty, integrity, and fair dealing to clients in time and services rendered, and in the amount charged for services, facilities, appliance, and drugs.

XII.

By releasing the three cats to Dr. & Mrs. Chelkowski in a heavily sedated condition without any instructions as to their care, respondent has violated Rule 573.22 of the Rules of Professional Conduct which states:

573.22, Professional Standard of Humane Treatment

Veterinarians shall exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community in which they practice or in similar communities.

XIII.

By charging a fee for deworming in the Chelkowski's cats, a service which was not performed, and dispensing the worm medication Droncit without instructions concerning its administration, as described in Paragraph III, Respondent has violated Rules 573.22 and 573.26 of the Rules of Professional Conduct which states:

573.26, Honesty, Integrity, and Fair Dealing

Licensed veterinarians shall conduct their practice with honesty, integrity, and fair dealing to clients in time and services rendered, and in the amount charged for services, facilities, appliance, and drugs.

573.22, Professional Standard of Humane Treatment

Veterinarians shall exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community in which they practice or in similar communities.

XIV.

Through failure to maintain patient records reflecting the treatment of Dr. & Mrs. Chelkowski's cats, Respondent has violated Rule 573.52 of the Rules of Professional Conduct which states in part:

573.52 Patient Record Keeping

(a.) Individual records will be maintained at the place of business and include, but are not limited to, identification of patient, patient history, including immunization records, dates of visits,

xrays, name and dosages of medications administered and/or dispensed, and other details as necessary to substantiate diagnosis and treatment.

(b.) Patient records shall be current and maintained on the business premises for a period of three years and are the responsibility and property of the employing veterinarian.

XV.

By releasing Ms. Judd's cat, "Punkin", in the semiconscious condition without any information as to what Ms. Judd should anticipate during the cat's recovery, Respondent has violated Rule 573.22 of the Rules of Professional Conduct which states:

573.22, Professional Standard of Humane Treatment

Veterinarians shall exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community in which they practice or in similar communities.

XVI.

By failure to administer, prescribe, or dispense any antibiotics for prevention of infection following surgery of the paw, leading to loss of the bones and partial loss of pad, Respondent has violated Rule 573.22 of the Rules of Professional Conduct which states:

573.22, Professional Standard of Humane Treatment

Veterinarians shall exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community in which they practice or in similar communities.

XVII.

By failing to maintain adequate patient records reflecting treatments provided to the cat "Punkin" owned by Ms. Debbie Judd, Respondent has violated Rule 573.52 of the Rules of Professional Conduct which states in part:

573.52 Patient Record Keeping

(a.) Individual records will be maintained at the place of business and include, but are not limited to, identification of patient, patient history, including immunization records, dates of visits, xrays, name and dosages of medications administered and/or dispensed, and other details as necessary to substantiate diagnosis and treatment.

(b.) Patient records shall be current and maintained on the business premises for a period of three years and are the responsibility and property of the employing veterinarian.

XVIII.

By anesthetizing Ms. Warrren's dog with a general anesthesia when not necessary or needed in order to treat it for "hot spots", Respondent has failed to exercise care, skill and diligence in treating patients and thereby violated Rule 573.22 of the Rules of Professional Conduct which states:

573.22, Professional Standard of Humane Treatment

Veterinarians shall exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community in which they practice or in similar communities.

XIX.

By releasing the unconscious dog, "Yoda" with no instruction and informing Ms. Warren that it was normal for a dog coming out from under anesthesia to have difficulty breathing and to be foaming at the mouth, Respondent violated Rules 573.22 of the Rules of Professional Conduct which states:

573.22, Professional Standard of Humane Treatment

Veterinarians shall exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community in which they practice or in similar communities.

XX.

By failing to maintain patient records concerning the treatment administered to Ms. Warren's dog, Respondent has violated Rule 573.52 of the rules of Professional Conduct which states in part:

573.52 Patient Record Keeping

(a.) Individual records will be maintained at the place of business and include, but are not limited to, identification of patient, patient history, including immunization records, dates of visits, xrays, name and dosages of medications administered and/or dispensed, and other details as necessary to substantiate diagnosis and treatment.

(b.) Patient records shall be current and maintained on the business premises for a period of three years and are the responsibility and property of the employing veterinarian.

XXI.

Through failure to exercise humane care, skill and diligence in treating patients as outlined in Paragraphs II, III, V, VI, VIII and IX, thereby continuously violating Rule 573.22 of the Rules of Professional Conduct; and through failure to maintain patient records as outlined in Paragraphs IV, VII and X, as required by Rule 573.52 of the Rules of Professional Conduct, Respondent has violated Article 8890, Veterinary Licensing Act, V.A.T.S., Section 14a(15) which states in part:

Article 8890, Section 14a

". . . 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:

(15) . . . is guilty of a pattern of acts indicating consistent malpractice, negligence, or incompetence in the practice of veterinary medicine.

XXII.

The Texas State Board of Veterinary Medical Examiners has grounds to take disciplinary action against Dr. Epperson's Veterinary License under the

Texas Veterinary Licensing Act, V.A.T.S., Article 8890, (formerly Article 7465a) Section 14 which states in part:

Article 8890, Section 14a

". . . 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:

(3) has engaged in dishonest or illegal practices in or connected with the practice of veterinary medicine;

(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;

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

(15) . . . is guilty of a pattern of acts indicating consistent malpractice, negligence, or incompetence in the practice of veterinary medicine.

Article 8890, Section 14B

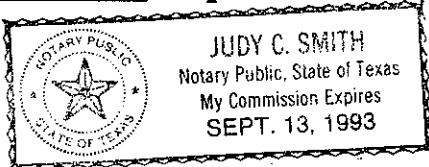
(a) If a person violates this Act in a manner that constitutes grounds for disciplinary action by the Board, the Board may assess a civil penalty against that person in addition to taking action under Section 14 or 14A of this Act.

The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the 5th day of December, 1990.

Further, Affiant sayeth not.

Ernie M. Carroll
ERNIE M. CARROLL, Affiant

SUBSCRIBED and SWORN TO before me by the said ERNIE M. CARROLL, this the 5th day of December, 1990.



Judy C. Smith
JUDY C. SMITH, Notary in and for Texas

My Commission expires: September 13, 1993.

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. E. E. EPPERSON, D.V.M. under Docketed Number 1911-11, this the 6th day of December, 1990.

Mary E. Mainster, DVM
MARY E. MAINSTER, D.V.M., Secretary
Texas Board of Veterinary Medical Examiners