

DOCKETED COMPLAINT NO. 1991-21

TEXAS STATE BOARD OF VETERINARY	()	TEXAS VETERINARY MEDICAL
MEDICAL EXAMINERS	()	LICENSE NO. 1620
vs.	()	1991 RENEWAL CERTIFICATE
JERRY JAMES HOSEK, D.V.M.	()	NUMBER 0237

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 June 18, 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 JERRY JAMES HOSEK, D.V.M., Hines North Animal Hospital, 11505 Harry Hines Blvd., Dallas, Dallas County, Texas, Veterinary License Number 1620, 1991 Renewal Certificate Number 0237, 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 JERRY JAMES HOSEK, D.V.M., who is hereinafter called Respondent.

I.

During the period of December of 1989 to July of 1990, Respondent allowed Kelley Richardson, an unlicensed employee, to treat animals, to perform surgeries (including cat neuters) and to prescribe medications for domestic animals.

II.

During the period of December of 1989 to July of 1990, Respondent allowed an unlicensed person, Ms. Judy Koschak, to presign Respondent's signature on Rabies Certificates.

III.

During the period of December of 1989 to July of 1990, Respondent allowed licensed veterinarians in his employment to complete rabies vaccination records that were presigned by an unlicensed person, reflecting the name of the Respondent rather than the signature of the licensed veterinarian administering the rabies vaccinations.

IV.

During the period of April of 1988 to June of 1990, 2,000 Hydrocodone Bitartrate 5 mg. tablets, a Schedule III Controlled Substance, were ordered and received. Respondent was unable to account for the disposition of 591 of the 2,000 tablets received. During the same time period, 25 pints of Hydrocodone Syrup, a Schedule III Controlled Substance, were ordered and received and Respondent was unable to account for 14 of the 25 pints received. In addition, Respondent was unable to furnish drug invoice records for the period previous to 1990.

V.

During the period of April of 1988 to June of 1990, Respondent failed to maintain individual patient records to account for the 591 5 mg. tablets of Hydrocodone Bitartrate and the 14 pints of Hydrocodone Syrup ordered, received, as described in Paragraph IV.

VI.

By allowing an unlicensed employee, Kelley Richardson to treat animals, perform surgeries, including cat neuters, and prescribe medication for domestic animals as described in Paragraph I, Respondent has violated Rules of Professional Conduct No. 573.10, Direct Supervision of Laymen, 573.11, Discouragement of Unauthorized Practice, and Article 8890, Section 14(a) (5) of the Texas Veterinary Licensing Act which state:

573.10 DIRECT SUPERVISION OF LAYMEN

(a.) A licensed veterinarian shall not allow an unlicensed person to issue presigned certificates with the veterinarian's signature affixed thereto. The licensee shall not permit an unlicensed person to inoculate or treat animals unless the inoculation or treatment are done under the direct supervision of the licensed veterinarian; provided however, an unlicensed individual shall not perform the following health care services: surgery; diagnosis and prognosis of animal diseases; and prescribing of drugs, medicine, and appliance for domestic animals.

(b.) "Direct Supervision" shall mean the supervision of those tasks or procedures that do not require the presence of a veterinarian in the room where performed, but require the presence of a licensee on the premises and availability for prompt consultation and treatment.

573.11 DISCOURAGEMENT OF UNAUTHORIZED PRACTICE

A licensed veterinarian shall be professionally and legally responsible for the unauthorized practice of veterinary medicine by unlicensed employees within the scope of their employment. An employee's unauthorized practice of veterinary medicine without a license constitutes grounds for the Texas State Board of Veterinary Medical Examiners to take action against the licensed veterinarian.

ARTICLE 8890, SEC. 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 license . . . 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;"

VII.

By allowing Ms. Judy Koschak to presign Respondent's signature on Rabies Certificates as described in Paragraph II, Respondent has violated Rule of Professional Conduct 573.10, Direct Supervision of Laymen, Rule 573.51, Rabies Control and Article 8890, Section 14(a) (5) and (7) of the Texas Veterinary Licensing Act which state in part:

573.10 DIRECT SUPERVISION OF LAYMEN

(a.) A licensed veterinarian shall not allow an unlicensed person to issue presigned certificates with the veterinarian's signature affixed thereto. The licensee shall not permit an unlicensed person to inoculate or treat animals unless the inoculation or treatment are done under the direct supervision of the licensed veterinarian; provided however, an unlicensed individual shall not perform the following health care services: surgery; diagnosis and prognosis of animal diseases; and prescribing of drugs, medicine, and appliance for domestic animals.

(b.) "Direct Supervision" shall mean the supervision of those tasks or procedures that do not require the presence of a veterinarian in the room where performed, but require the presence of a licensee on the premises and availability for prompt consultation and treatment.

573.51 RABIES CONTROL

(a.) Each Texas licensed veterinarian shall keep a record of each rabies vaccination administered by him/her for at least three (3) years. The record of said vaccination shall include the date administered, animal's breed, age, approximate weight, name, color, owner, the vaccine expiration date, together with its serial number. The name, address and telephone number of the administering veterinarian, along with his/her signature and license number shall be included. The tag shall include the tag serial number, clinic name, or veterinarian's name, telephone number, or address and the title "Rabies".

ARTICLE 8890, SEC 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 license . . . 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;"

(7) has fraudulently issued a health certificate, vaccination certificate, test chart, or other blank form used in the practice of veterinary medicine that relates to the presence or absence of animal disease."

VIII.

By allowing licensed veterinarians in his employment to complete rabies vaccination records that were presigned by an unlicensed person, reflecting the name of the Respondent rather than the signature of the licensed veterinarian administering the rabies vaccinations, as described in Paragraph III, Respondent has violated Rules of Professional Conduct 573.10, Direct Supervision of Laymen; 573.51, Rabies Control; and Article 8890, Section 14(a) (5) and (7) of the Texas Veterinary Licensing Act which state in part:

573.10 DIRECT SUPERVISION OF LAYMEN

(a.) A licensed veterinarian shall not allow an unlicensed person to issue presigned certificates with the veterinarian's signature affixed thereto. The licensee shall not permit an unlicensed person to inoculate or treat animals unless the inoculation or treatment are done under the direct supervision of the licensed veterinarian; provided however, an unlicensed individual shall not perform the following health care services: surgery; diagnosis and prognosis of animal diseases; and prescribing of drugs, medicine, and appliance for domestic animals.

(b.) "Direct Supervision" shall mean the supervision of those tasks or procedures that do not require the presence of a veterinarian in the room where performed, but require the presence of a licensee on the premises and availability for prompt consultation and treatment.

573.51 RABIES CONTROL

(a.) Each Texas licensed veterinarian shall keep a record of each rabies vaccination administered by him/her for at least three (3) years. The record of said vaccination shall include the date administered, animal's breed, age, approximate weight, name, color, owner, the vaccine expiration date, together with its serial number. The name, address and telephone number of the administering veterinarian, along with his/her signature and license number shall be included. The tag shall include the tag serial number, clinic name, or veterinarian's name, telephone number, or address and the title "Rabies".

ARTICE 8890, SEC. 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 license . . . 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;"

(7) has fraudulently issued a health certificate, vaccination certificate, test chart, or other blank form used in the practice of veterinary medicine that relates to the presence or absence of animal disease."

IX.

By failing for account for 591 of the 2,000 5 mg. Hydrocodone Bitartrate tablets received; 14 of the 25 pints or Hydrocodone Syrup received and failure to provide drug invoice records for drugs purchased prior to 1990, as described in Paragraph IV, Respondent has violated Rule 573.50, Controlled Substances Record Keeping for Drugs on Hand; Rule 573.41(b), Use of Prescription Drugs; and Sections 14(a), (5), and (12) of the Texas Veterinary Licensing Act which state in part:

573.50 CONTROLLED SUBSTANCES RECORDS KEEPING FOR DRUGS ON HAND

Texas veterinarians shall maintain at their place of business records of all scheduled drugs listed in the Texas Controlled Substances Act, in their possession. These records shall be maintained for a minimum of five (5) years. The form for keeping records of those drugs shall contain the following information in addition to the name of the drug:

1. Date of acquisition,
2. Quantity purchased,
3. Date administered, dispensed,
4. Quantity administered, dispensed,
5. Name of client and patient receiving the drug(s),
6. Diagnosis and
7. Balance on hand.

573.41 USE OF PRESCRIPTION DRUGS

(b.) It shall be unprofessional and a violation of the Rules of Professional Conduct for a licensed veterinarian to prescribe, provide, obtain, order, administer, possess, dispense, give or deliver to or for any person prescription drugs, that are not necessary or required for the medical care of animals, or where the use or possession of such drugs would promote addiction thereto. Prescription drugs are defined in subsection (a.) of this rule.

ARTICLE 8890, SEC. 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 license . . . 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;"

(12) has ordered prescription drugs or controlled substances for the treatment of an animals without first establishing a valid veterinarian-patient-client relationship

X.

By failing to maintain individual patient records to account for the 591 5 mg. tablets of Hydrocodone Bitartrate and the 14 pints of Hydrocodone Syrup ordered and received as described in Paragraph IV, Respondent has violated Rule of Professional Conduct No. 573.52, Patient Record Keeping, and Section 14(a) (5) of the Texas Veterinary Licensing Act which state:

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, x-rays, names 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.

(c.) When appropriate, licensees may substitute the words "herd", "flock" or other collective term in place of the word "patient" in subsections (a.) and (b.) of this section. Records to be maintained on these animals may be kept in a daily log, or the billing records, provided that the treatment information that is entered is adequate to substantiate the identification of these animals and the medical care provided. In no case does this eliminate the requirement to maintain drug records as specified by state and federal law and Board rules.

ARTICLE 8890, SEC. 24(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 license . . . 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;"

XI.

The Texas State Board of Veterinary Medical Examiners has grounds to take disciplinary action against Dr. Hosek'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 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:

(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;

(12) has ordered prescription drugs or controlled substances for the treatment of an animal without first establishing a valid veterinarian-patient-client relationship.

ARTICLE 8890, SECTION 14B

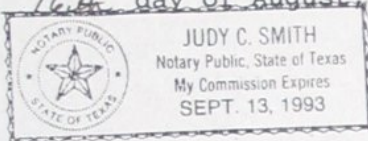
(a) If a person violates this Act in a manner that constitutes grounds for disciplinary action by the Board, the Board may assess a civil penalty against that person in addition to taking action under Section 14 or 14A of this Act.

The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the 16th day of August, 1991.

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 16th day of August, 1991.



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. JERRY JAMES HOSEK, D.V.M. under Docketed Number 1991-21, this the 16th day of August, 1991.

Guy A. Sheppard
GUY A. SHEPPARD, D.V.M., Secretary
Texas Board of Veterinary Medical Examiners