

STATE OF CONNECTICUT
CONNECTICUT BOARD OF VETERINARY MEDICINE

Patrick Hallisey, D.V.M.
60 Beaver Road
Wethersfield, CT 06109

Petition No. 970730-047-015

MEMORANDUM OF DECISION

Procedural Background

On September 23, 1998, the Department of Public Health ("the Department") presented the Connecticut Board of Veterinary Medicine ("the Board") with a Statement of Charges brought against Patrick Hallisey, D.V.M. ("respondent") dated June 24, 1998. Dept. Exh. 3. The Statement of Charges, along with the Notice of Hearing, was sent to respondent by certified mail, return receipt requested, and first class mail on July 31, 1998. The Notice of Hearing scheduled a hearing for September 23, 1998, and notified the parties that the hearing would be held before the Board. Dept. Exh. 3

Respondent filed an Answer on August 3, 1998. Rt. Exh. A.

On September 23, 1998, the Board held an administrative hearing to adjudicate respondent's case. Respondent appeared and was represented by Attorney Richard Brown. Attorney Ellen M. Shanley represented the Department.

On September 23, 1998, the administrative hearing was continued to December 2, 1998 at which time the hearing was concluded.

Respondent filed a Request for Consolidation with Petition No. 970730-047-016 for purposes of hearing evidentiary matters. That Request was granted.

The Board conducted the hearing in accordance with Connecticut General Statutes Chapter 54 (the Uniform Administrative Procedure Act) and the Regulations of Connecticut State Agencies §§19a-9-1, et seq. All Board members involved in this decision received copies of the entire record. All Board members involved in this decision attest that they have either heard the case or read the record in its entirety. This decision is based entirely on the record.

Allegations

1. In Paragraph 1 of the Statement of Charges, the Department alleged that respondent is, and has been at all times referenced therein, the holder of Connecticut veterinarian license number 001474.
2. In Paragraph 2 of the Statement of Charges, the Department alleged that during the summer of 1997, respondent provided care and treatment to Emmitt, an approximately 5 year old dog, owned by the Saladins.
3. In Paragraph 3 of the Statement of Charges, the Department alleged that in providing such care and treatment to Emmitt, respondent negligently and/or unskillfully failed to perform appropriate laboratory tests for the symptoms presented.
4. In Paragraph 4 of the Statement of Charges, the Department alleged that the above described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §20-202(2).
5. The Department requests that the Connecticut Board of Veterinary Medicine, as authorized in §§19a-17 and 20-202, revoke or order other disciplinary action against the veterinarian license of Patrick Hallisey, D.V.M. as it deems appropriate and consistent with law.

Findings of Fact

1. Patrick Hallisey of Wethersfield is, and has been at all times referenced in this Statement of Charges, the holder of Connecticut veterinarian license number 001474. Rt. Exh. A.
2. During the summer of 1997, respondent provided care and treatment to Emmitt, an approximately five year old dog, owned by Barbara Saladin and her husband ("Saladin"). Rt. Exh. A.
3. Dr. Focacci and respondent practiced at the Animal Clinic of Wethersfield ("the Clinic") where Emmitt was taken for treatment in 1996 through part of 1997. Tr. 9/23/98, 17.
4. On June 14, 1997, as treatment for ear infection and inflammation, Emmit was put on Medrol to reduce the inflammation and SXT, an antibiotic. He was still receiving this medication on July 14, 1997. Tr. 9/23/98, 18, 79; Tr. 12/2/98, 29.

5. Side effects of Medrol and SXT, a sulfonamide drug, include ulcerations of the mouth, loss of appetite, Polyuria, polydipsia, and weight loss. Tr. 9/23/98, 79, 80, 128; Tr. 12/2/98, 35.
6. On July 14, 1997, Emmitt was taken by Saladin to the Clinic for treatment of sneezing, vomiting, runny nose, lack of appetite, and lethargy. Tr. 9/23/98, 18; Tr. 12/2/98, 31.
7. On July 14, 1997, Dr. Focacci examined Emmitt and observed that he had nasal discharge from both nostrils as well as a discharge from his ears which were very red, painful, and inflamed. His mucous membranes were pink and moist with an ulceration or blister almost the entire length of his tongue and around the corners of his mouth. He was otherwise normal. Tr. 9/23/98, 9; Tr. 12/2/98, 27, 28, 32.
8. On July 14, 1997, Dr. Focacci informed Saladin that he believed that drug reactions had possibly caused the sores in Emmitt's nose and mouth. Tr. 9/23/98, 19.
9. On July 14, 1997, Dr. Focacci performed no lab tests on Emmit. Tr. 9/23/98, 19; Tr. 12/2/98, 36.
10. On July 14, 1997, Saladin did not refuse to have lab tests performed on Emmitt. Tr. 9/23/98, 20.
11. Dr. Focacci told Saladin to stop administering the Medrol and change to another antibiotic, Clavamax. Tr. 12/2/98, 33.
12. On July 15, 1997, Saladin spoke with respondent by telephone, and informed him that she was on the floor with the dog, and described his mouth and his condition. She also put the telephone near the dog so respondent could hear the dog's labored breathing. Tr. 9/23/98, 21.
13. On Wednesday, July 16, 1997, Saladin took Emmitt back to the Clinic and dropped him off. Tr. 9/23/98, 22.
14. After examining Emmitt, respondent telephoned Saladin during the morning of July 16, 1997. She informed him that she had observed blood in Emmitt's urine. Tr. 9/23/98, 23; Tr. 12/2/98, 61.
15. Respondent met with Saladin, when she came to retrieve Emmitt from the Clinic, on the afternoon of July 16, 1997. Tr. 9/23/98, 24.
16. Respondent performed no laboratory tests on Emmitt on July 16, 1997. Tr. 9/23/98, 24; Tr. 12/2/98, 62.
17. Saladin did not refuse to authorize any tests for Emmitt on July 16, 1997. Tr. 9/23/98, 24.

18. If blood tests were performed on July 16, 1997, they would have provided information on the condition of Emmitt's kidneys. Tr. 12/2/98, 13.
19. Mark Russak, D.V.M. is a licensed veterinarian. Tr. 9/23/98, 37.
20. Emmitt was brought to Dr. Russak's animal hospital by Saladin on July 17, 1997. Tr. 9/23/98, 38; Dept. Exh. 8:1-2.
21. Emmitt was a very sick dog when he presented to Dr. Russak on July 17, 1997. Tr. 9/23/98, 39, 40; Dept. Exh. 8:1-4.
22. Emmitt was at Dr. Russak's clinic less than one hour when he died on July 17, 1997. Tr. 9/23/98, 43.
23. Dr. Russak's records state that the results of Emmett's lab tests, performed on July 17, 1997 and received on July 18, 1997, indicate renal failure, acute crisis. Tr. 9/23/98, 56, 58; Dept. Exh. 8-2.
24. On July 14, 1997, Dr. Focacci acted reasonably in not ordering blood tests or urinalysis. Tr. 9/23/98, 132.
25. The Board considered the testimony of respondent's expert, Brian Vitelli, D.V.M.
26. The Board finds the testimony of the Department's expert, Donald Hartrick, D.V.M. to be credible.
27. The standard of care required that respondent perform laboratory tests, including blood tests, CBC Chemistry, and urinalysis, on Emmitt, on July 16, 1997. Tr. 9/23/98, 69, 89, 90, 92; Rt. Exh. H-3, pp. 4, 6.
28. Respondent was negligent in failing to perform appropriate testing on July 16, 1997. Tr. 9/23/98, 69.
29. In providing such care and treatment to Emmitt, respondent negligently failed to perform appropriate laboratory tests for the symptoms presented. Tr. 9/23/98, 69, Rt. Exh. H-3, pp. 4, 6.

Discussion and Conclusions of Law

Section 20-202 of the Connecticut General Statutes provides in pertinent part “. . . [the Connecticut Board of Veterinary Medicine] . . . may take any of the actions set forth in §19a-17 [with] . . . (2) proof that the holder of such license or certificate has been unfit

or incompetent or has been guilty of cruelty, unskillfulness or negligence toward animals and birds . . . ”

The Department bears the burden of proof by a preponderance of the evidence in this matter. *Steadman v. Securities and Exchange Commission*, 450 U.S. 91, 101 S. Ct. 999, *reh'g denied*. 451 U.S. 9333 (1981); *Swiller v. Commissioner of Public Health* CV 950795601, Superior Court, J.D. Hartford/New Britain at Hartford, Memorandum filed October 10, 1995.

The Board finds that the Department has met its burden of proof that respondent, in providing such care and treatment to Emmitt, negligently failed to perform appropriate laboratory tests for the symptoms presented and, thus, engaged in a single act of negligence.

When Emmitt was presented to the Clinic, on July 14, 1997, it was reasonable to believe that the symptoms observed were caused by a reaction to the Medrol and SXT. The course of treatment elected by Dr. Focacci, to withdraw those drugs and re-evaluate him at a scheduled follow-up visit was, similarly, a reasonable course of action.

However, the Board further finds that when Emmitt was brought back to the Clinic on July 16, 1997, for the same problem, with the owner expressing concerns, it was unreasonable and constitutes a single act of negligence, for respondent not to have ordered that laboratory tests be performed on Emmitt at that time. This finding is supported not only by the facts of this case and evidence presented by the Department, but, notably, is supported by the exhibits submitted by respondent as well. Rt. Exh. H-3, pp. 4, 6.

On making this finding, the Board relies on (1) that Emmitt's visit on July 16, 1997, was a second visit for the same problem; (2) the testimony of the Department's expert witness, Donald Hartrick, D.V.M.; and; (3) the expertise of the Board.

Order

Based upon the record in this case, the above findings of fact, and the conclusions of law, and pursuant to the authority vested in it by §§19a-17 and 20-202 of the Connecticut

General Statutes, the Board orders the following in the case of Patrick Hallisey, D.V.M.,
Petition number 970730-047-015, veterinarian license number 001474:

1. The Board hereby reprimands the Respondent.

Connecticut Board of Veterinary Medicine

August 25, 1999
Date

Jordan R. Dann
by: Jordan R. Dann, D.V.M. Chairman