

STATE OF CONNECTICUT

CONNECTICUT BOARD OF VETERINARY MEDICINE

Sherif Lawendy, D.V.M.
9 Plunket Place
Westport, CT 06880

Petition No. 971008-047-022

MEMORANDUM OF DECISION

Procedural Background

On October 20, 1999, the Department of Public Health ("the Department") presented the Connecticut Board of Veterinary Medicine ("the Board") with a Statement of Charges ("the Charges") dated February 5, 1999, against Sherif Lawendy, D.V.M. ("respondent"). Dept. Ex. 1. The Charges, along with the Notice of Hearing, was sent to respondent by certified mail, return receipt requested, and first class mail on April 5, 1999. The Notice of Hearing scheduled a hearing for July 14, 1999, and notified the parties that the hearing would be held before the Board. Dept. Ex. 2. At the request of respondent, the hearing was continued to October 20, 1999. Dept. Ex. 3; Rt. Ex. C, D.

Respondent filed an Answer on April 26, 1999. Respondent (Rt.) Ex. B.

On October 20, 1999, the Board held an administrative hearing to adjudicate respondent's case. Respondent appeared *pro se* and the Department was represented by Attorney Leslie Scoville. During the hearing, respondent filed a Motion to Dismiss certain of the allegations in the Charges that the Board denied. Rt. Exs. A.

The Board conducted the hearing in accordance with Chapter 54 of the Connecticut General Statutes (the Uniform Administrative Procedure Act) and Conn. Agencies Regs. §§19a-9-1, et seq. All Board members involved in this decision received copies of the entire record and 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 Charges, the Department alleges that respondent is, and has been at all times referenced therein, the holder of Connecticut veterinarian license number 002532.
2. In Paragraph 2 of the Charges, the Department alleges that on or about August 31, 1997, respondent provided veterinary care to one or more animals at a clinic offered through a pet store in Brookfield, Connecticut.
3. In Paragraph 3 of the Charges, the Department alleges that in providing such care, respondent failed to;
 - a. observe sanitary procedures;
 - b. obtain a health history before administering medication(s);
 - c. examine the animals before administering medications(s);
 - d. limit the practice of veterinary medicine by non-veterinarians; and/or,
 - e. produce and/or maintain medical records for the animals to whom care was provided.
4. In Paragraph 4 of the Charges, the Department alleges that the above described facts constitute grounds for disciplinary action pursuant to *Conn. Gen Stat.* §§20-202(2), 20-202(8), and/or 20-202(9).
5. The Department requests that the Connecticut Board of Veterinary Medicine, as authorized in *Conn. Gen. Stat.* §§19a-17 and 20-202, revoke or order other disciplinary action against the veterinarian license of Sherif Lawendy, D.V.M. as it deems appropriate and consistent with law.

Findings of Fact

1. Sherif Lawendy of Westport, Connecticut, is, and has been at all times referenced in the Charges, the holder of Connecticut veterinarian license number 002532. Rt. Ex. B.
2. On or about August 31, 1997, respondent provided veterinary care to several animals at a clinic conducted at a pet store in Brookfield, Connecticut (“the clinic”). Rt. Ex. 2. The care respondent provided consisted primarily, if not totally, of the administration of various vaccinations. Dept. Ex. 13.
3. Respondent failed to wash his hands before he vaccinated each animal at the clinic. Transcript (Tr.) 43, 44, 48, 146.

4. Respondent failed to disinfect the examining table before he vaccinated each animal at the clinic. Tr. 43, 44, 48, 143.
5. The standard of care requires that a licensed veterinarian wash his or her hands and disinfect an examining table before vaccinating an animal. Tr. 51, 92.
6. Respondent failed to physically examine each animal before he vaccinated it at the clinic. Tr. 24, 42.
7. A physical examination is required before an animal is vaccinated to detect if the animal has a medical condition which might impair the effectiveness of the vaccination, increase the likelihood of an adverse reaction to a vaccine, or be exacerbated by a vaccination. Tr. 53, 54, 98, 99, 110.
8. Lay pet owners may not know if their pets have medical conditions that would impact a veterinarian's decision to vaccinate an animal. Tr. 54, 113.
9. A young woman, identified in the record as "Vicky," assisted respondent at the clinic. Vicky requested that pet owners complete various forms and provided advice regarding vaccine regimens, heartworm testing and prevention, and flea control products. Tr. 40, 41.
10. Before a pet was treated by respondent at the clinic, each pet owner was requested to sign a pre-printed statement on the upper right-hand corner of a vaccination certificate ("the vaccination certificate") that provided, in relevant part, as follows:

To the best of my knowledge as a responsible pet owner, my pet(s) is healthy with no diagnosed allergies to vaccines and has had no recent occurrences of abnormal coughing, sneezing, vomiting, diarrhea or runny eyes. . . . I also acknowledge . . . that a vaccine reaction is possible yet rare Being aware of these facts, I give my permission to the Doctor to administer the vaccine listed below.

Following this statement, the form provided lines for the owner's signature and the date. Dept. Ex. 11; Tr. 46.

11. The vaccination certificate also contained a section entitled "Pet Information" that provided space to enter the following information: the pet's name, breed, age, color and sex; whether the pet was a dog or cat; and whether the pet was altered, on

medication, or pregnant. The vaccination certificate also contained a list of various vaccinations with boxes to check if the vaccination was provided. Dept. Ex. 11; Tr. 46.

Discussion and Conclusions of Law

Section 20-202 of the Connecticut General Statutes provides, in pertinent part, that the Connecticut Board of Veterinary Medicine “may take any of the actions set forth in §19a-17 for any of the following causes . . . (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; . . . (8) knowingly having professional association with . . . any person who is unlawfully practicing veterinary medicine; (9) failure to keep veterinary premises and equipment in a clean and sanitary condition” The Department bears the burden of proving one or more of these causes by a preponderance of the evidence. *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*, 15 Conn. Law Rptr. No.16, 532 (January 29, 1996).

The Board relied on the training and experience of its members in making its findings of facts and conclusions of law. *Pet v. Department of Health Services*, 228 Conn. 651, 667 (1994).

Paragraph 3(a) of the Charges

The evidence establishes, and respondent has admitted, that he failed to wash his hands or disinfect his examination table between each animal he treated at the clinic. Findings of Fact (F.F.) 3, 4. The Board finds that respondent failed to observe sanitary procedures as alleged in Paragraph 3(a) and that this failure constitutes a violation of *Conn. Gen. Stat. §20-202(9)*.

Paragraph 3(b) of the Charges

Before each pet was seen by respondent at the clinic, its owner signed a waiver that provided respondent with certain health history information about the pet. F.F. 10. The Board finds that this information constituted a minimally acceptable health history for the

type of care respondent was providing at the clinic. The Department therefore failed to sustain its burden of proving the allegation set forth in Paragraph 3(b).

Paragraph 3(c) of the Charges

The evidence establishes, and respondent has admitted, that he failed to conduct a physical examination of each animal before he treated it at the clinic. The Board finds that respondent failed to examine animals before administering medications as alleged in Paragraph 3(c). The Board further finds that this failure posed a risk to the animals respondent treated, and to the general public, and thus constitutes negligence to animals within the meaning of *Conn. Gen. Stat. § 20-202(2)*. F.F. 6.

Paragraph 3(d) of the Charges

The Board finds that the services rendered by “Vicky” at the clinic did not constitute the practice of veterinary medicine within the meaning of *Conn. Gen. Stat. §20-197*. F.F.8. The Department therefore failed to meet its burden of proving that respondent failed to limit the practice of veterinary medicine by non-veterinarians as alleged in Paragraph 3(d).

Paragraph 3(e) of the Charges

It is unclear on the current record whether or not respondent provided a completed vaccination certificate to the owner of each pet he treated at the clinic. If respondent did so, the completed certificate would have constituted a medical record for the animals he treated. The Board, therefore, finds that the Department failed to establish that respondent did not produce medical records for the animals he treated as alleged in Paragraph 3(e).

Order

Based upon the record in this case, the above findings of fact and conclusions of law, and pursuant to the authority vested in it by *Conn. Gen. Stat.* §§19a-17 and 20-202, the Board orders the following in the case of Sherif Lawendy, D.V.M., Petition number 971008-047-022, veterinarian license number 002532: the Board hereby reprimands respondent's license.

Connecticut Board of Veterinary Medicine

April 12, 2000
Date

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