

Filed

SEP 24 1985

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF VETERINARY MEDICAL
EXAMINERS
CASE NO. 84-64

IN THE MATTER OF :
OSSAMA BARR, D.V.M. : FINAL DECISION AND ORDER
Licensed to Practice Veteri- :
nary Medicine in the State of :
New Jersey :

This matter was opened to the Board by the request of Ossama Barr, D.V.M., licensed practitioner of veterinary medicine (hereinafter sometimes "respondent"), for a hearing on the Board's penalty letter dated February 1, 1985. The penalty letter alleged repeated acts of negligence, malpractice and/or incompetence in violation of N.J.S.A. 45:1-21(d) in that respondent failed to: properly assess the injury of a cat presented with a posterior paralysis; perform a neurological evaluation; perform a radiologic examination prior to surgery; notify the pet's owner of possible neurological damage; and keep adequate medical records documenting, for example, the condition of the animal upon presentation, the weight of the animal, etc. A hearing in this matter was held on July 31, 1985 with Dr. Ossama Barr appearing pro se and Maxine Neuhauser, Deputy Attorney General, appearing on behalf of the complainant.

The State presented the following documentary evidence which was admitted in evidence:

S-1 Medical records of Toby, two year old pet cat of Connie Festa.

S-2 Curriculum Vitae of Douglas L. Moldoff, D.V.M.

S-3 Report of Douglas L. Moldoff, D.V.M., concerning O. Barr, D.V.M., case #84-68.

The State presented an expert witness, Doulgas Moldoff, D.V.M. Dr. Moldoff testified concerning the accepted standards of veterinary meecial practice and offered his expert opinion concerning Dr. Barr's examination, diagnosis and treatment of the cat and Dr. Barr's medical records pertaining to the cat.

The Board conducted its deliberations in executive session on July 31, 1985, but did not announce its decision in public session on that date. The Board's decision was announced in public session on August 28, 1985. On consideration of the record herein, the Board makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Ossama Barr, D.V.M., is a licensed practitioner of veterinary medicine and has been licensed at all times pertinent hereto.
2. On Thursday, July 12, 1984, Connie Festa and Hernan Perez brought Ms. Festa's pet cat Toby to the Red Bank Pet Hospital; the cat had been hit by a car.
3. Dr. Barr examined and treated the cat.
4. Upon presentation, the cat was ambulatory and not suffering from a posterior paralysis.
5. Dr. Barr's examination of Toby consisted of the following: auscultation of the cat's heart and lungs, palpation of the

cat's abdomen and bladder, checking of the cat's mucous membranes, and manipulation with forceps of the cat's injured tail. Dr. Barr also attempted to take the cat's temperature but was unable to do so because the cat jumped off the examining table.

6. Dr. Barr did not perform a radiologic examination at this time or at any time during the cat's stay in the pet hospital, nor did he discuss this option with Ms. Festa or Mr. Perez.

7. Based on his examination (see Finding number 5, above), Dr. Barr's diagnosis was that Toby's sole injury was a fractured tail.

8. Dr. Barr told Ms. Festa and Mr. Perez of his diagnosis and told them that his suggested course of treatment was to amputate the cat's tail.

9. Dr. Barr further informed Ms. Festa and Mr. Perez that Toby's prognosis would be good after surgery.

10. Dr. Barr did not discuss with Ms. Festa and/or Mr. Perez at this time or at any other time the possibility that the cat had suffered neurological damage, such as bladder and/or bowel control problems.

11. Amputation of the tail was the only treatment option presented to Ms. Festa and Mr. Perez by Dr. Barr.

12. Dr. Barr discussed the cost of the treatment with Ms. Festa and Mr. Perez (approximately \$130).

13. Ms. Festa and Mr. Perez discussed the cost of the treatment and whether to have the cat euthanized; they decided to have Dr. Barr treat the cat.

14. Dr. Barr prepared Toby for surgery and operated that afternoon (approximately one hour after Toby was admitted to the

hospital), amputating Toby's tail.

15. Toby remained in the pet hospital under Dr. Barr's care until Saturday, July 14, 1984 at which time she was discharged to Ms. Festa and Mr. Perez.

16. While Toby remained in the hospital, Dr. Barr conducted daily examinations and administered medication.

17. With an injury to the tail such as occurred in this case, it is possible, and indeed likely, that nerves to the bladder and bowel would be affected; lack of bladder and/or bowel control would indicate neurological damage.

18. After his initial examination of Toby and after surgery was performed, Dr. Bass did not palpate the cat's bladder nor did he make observations of Toby specifically to see if the cat had bladder and bowel control. The neurological examination of Toby was therefore inadequate.

19. At the time Toby was discharged, she was eating normally and walking.

20. When Toby was discharged, Dr. Barr gave the owners medication for Toby and instructions as to treatment.

21. On Monday, July 16, 1984 Ms. Festa telephoned Dr. Barr and told him that Toby appeared to be uncomfortable and was not eating; Dr. Barr advised Ms. Festa to bring the cat in if she felt it was necessary.

22. On Tuesday, July 17, 1984, Ms. Festa brought Toby back to Dr. Barr.

23. Dr. Barr examined Toby and observed maggots in the area of the surgery. Dr. Barr advised Ms. Festa that Toby could be cleaned up and would be in good health.

24. Toby was ambulatory at this time.

25. Ms. Festa chose to have the cat euthanized.

26. Dr. Barr euthanized the cat and cremated the remains.

27. Dr. Barr's medical records for Toby consist of a file card and a post surgical record sheet.

28. The file card contains dates of initial visit, discharge and euthanasia and a general description of the injury the cat suffered, the drug prescribed on discharge and the final disposition of the cat.

29. The post surgical record sheet contains a short description of the cat's injury, notations as to date, appetite, bowel movement, urine, temperature and progress and treatments. Under the progress and treatments heading Dr. Barr lists medications and dosage given.

30. Dr. Barr's medical records on Toby do not contain specific information as to the cat's condition upon presentation, the weight of the animal, findings upon examination of the cat, or consultation with the owner(s) about diagnosis, prognosis and treatment options for the cat; the medical records are therefore inadequate.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board makes the following Conclusions of Law:

1. Having found that upon presentation the cat was ambulatory and not suffering from a posterior paralysis, the Board concludes there is no evidence to support the charge that respondent failed to properly assess the injury of a cat presented with posterior paralysis.

2. Respondent's failure to examine for bladder and bowel control is a failure to conduct a complete neurological examination which constitutes a deviation of the accepted standards of veterinary medicine and therefore constitutes an act of negligence.

3. Respondent's failure to perform a radiologic examination prior to surgery or offer the owner the option of X-ray procedures constitutes a deviation from the accepted standards of veterinary medicine and therefore constitutes an act of negligence.

4. Respondent's failure to notify the pet's owners of possible neurological damage, for example, lack of bladder control, constitutes a deviation from accepted standards of veterinary medicine and therefore constitutes an act of negligence.

5. Respondent's failure to keep adequate medical records constitutes a deviation from accepted standards of veterinary medicine and therefore constitutes an act of negligence.

6. Respondent's failure to conduct a complete neurological examination, failure to perform a radiologic examination, failure to notify the pet's owners of possible neurological damage and failure to keep adequate medical records constitutes repeated acts of negligence, malpractice and/or incompetence in violation of N.J.S.A. 45:1-21(d).

IT IS, THEREFORE, on this 18 day of Sept, 1985,
ORDERED that:

1. Respondent shall be assessed a civil penalty of Three Hundred (\$300) Dollars, which shall be payable within fifteen (15) days of the receipt of this Order.

2. Respondent be assessed costs of this action, including the costs of transcript, in an amount as may be proven by affidavit provided by the deputy attorney general prosecuting this case. The affidavit shall be provided to the Board within fifteen (15) days of the entry of the within Order. Respondent shall remit that sum within fifteen (15) days after having received notification of the costs assessed.

3. Respondent be and hereby is reprimanded for the negligent acts and practices found herein.

David Eisenberg DVM

DAVID EISENBERG, D.V.M.
PRESIDENT
STATE BOARD OF VETERINARY MEDICAL
EXAMINERS