

October 11, 1994

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF VETERINARY
MEDICAL EXAMINERS
DOCKET NO.

IN THE MATTER OF SUSPENSION :
OR REVOCATION OF LICENSE OF :
 :
 : Administrative Action
 :
 SAMUEL RUBIN, D.V.M : FINAL DECISION and ORDER
 :
 :
 TO PRACTICE VETERINARY :
 MEDICINE IN THE STATE :
 OF NEW JERSEY :

This matter having been opened to the State Board of Veterinary Medical Examiners, by Complaint filed February 16, 1994 by Deborah Poritz, Attorney General of the State of New Jersey, by Brenda Talbot Lewis, Deputy Attorney General. That complaint charged that respondent undertook to provide care to a cat, Billy, owned by Maureen Grawl on March 2, 1991 for feline urological syndrome. When the cat was brought back to the office on March 7, presenting with symptoms of urinary obstruction, a condition which is painful and life threatening, respondent administered Ketamine, an anesthetic agent, to prepare the cat for insertion of a urinary catheter. Thereafter, upon Mrs. Grawl's refusal to provide financial information, respondent refused to continue treating the anesthetized cat. Respondent's course of conduct was alleged to constitute gross malpractice pursuant to N.J.S.A 45:1-21(c), as

well as a violation of N.J.A.C. 13:44-2.10 (requiring a veterinarian to provide emergency care to animals). Additionally, respondent was charged with failing to maintain an appropriate treatment record in violation of N.J.A.C. 13:44-2.12 and N.J.S.A. 45:1-21(h), when he testified at the hearing that in addition to the Ketamine, he had also administered Acepromazine (a drug which would prolong the duration of the recovery from the anesthetic Ketamine) and had failed to note the amount or even that he had administered the drug in his medical record.

An Answer, denying the charges was filed on respondent's behalf on March 31, 1994 and a hearing held before the Board* on July 27, 1994. Deputy Attorney General Lewis appeared on behalf of the Attorney General and Roy Baylinson, Esquire, appeared for respondent. The State presented the testimony of an expert, James F. Wilson, D.V.M., J.D., who opined, that when the cat, Billy was brought in on March 7, 1991, his situation was truly an emergency. Dr. Wilson testified that "an obstructed male cat unable to urinate with a very full bladder showing symptoms of lethargy, pain and

*Board members Werner and Hennessy recused themselves from the matter.

discomfort is truly a medical emergency that requires immediate attention..." Dr. Wilson stated that "...one cc administered intramuscularly to a cat with an obstruction that is not dislodged would undoubtedly prolong the anesthesia by as much as six to eight hours as opposed to the same anesthesia in a cat that did not have a urinary obstruction." He went on to say that administration of a cc of Ketamine to a plugged cat would cause an extended anesthesia time period, which would "extend hypothermia which decreases the metabolic rate and certainly predisposes to a cardiac arrest, respiratory arrest and other kinds of complications". When asked to offer an opinion as to the affect of adding the drug Acepromazine to the dosage of Ketamine, Dr. Wilson testified that the affect would be to "prolong the duration of the recovery from the anesthetic". Dr. Wilson also testified that the addition of the Acepromazine 'would also ordinarily then reduce the requirement for 100 milligrams or one cc of Ketamine". Dr. Wilson opined that the addition of Acepromazine was an important consideration and in his opinion, it enhanced his belief that the dosage of Ketamine was inappropriate, especially in view of the addition of the Acepromazine.

Marianne C. Kehoe, Executive Director of the Board, and custodian of the record, identified the following documents offered by the state and admitted into evidence:

P1 - The original complaint that was filed with the Board by Martin and Maureen Grawl.

P2 - Records received from Dr. Bush, the second veterinarian that treated Billy on March 7, 1991 at the Linwood Animal Hospital.

P3 - Respondent's response to the Board, to the complaint filed by Maureen and Martin Grawl.

P4 - Original copy of the transcript of the investigative inquiry held before the Board regarding Dr. Rubin on June 12, 1991.

Respondent testified on his own behalf. He acknowledged that he diagnosed a urinary blockage when he examined the cat Billy on March 7, 1991; that he anesthetized the cat with Ketamine hydrochloride and Acepromazine in preparation for catherization; that after Billy was anesthetized, he refused to service the cat when its owner would not give financial information on a form that had been offered to her by respondent's receptionist; that the cat's owner had paid in cash before and had never missed payment of a bill; that the cat, Billy was in an emergency situation (although respondent felt that the emergency was the pain and suffering, and since the cat could no longer feel pain under anesthesia, the emergency had been relieved); that a cat with urinary blockage can die; although he had anesthetized the cat in preparation for the catherization, respondent denies having formed a doctor-patient relationship with Billy.

Respondent offered into evidence:

D1 - Letter dated June 26, 1991 to respondent from Maurice McQuade who was then the executive director of the Board.

D2 - Atlantic County Veterinary Emergency Service document. The Board, upon consideration of the entire record in this matter made the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. On or about March 2, 1991, Maureen Grawl brought her cat, Billy, to respondent's office for treatment for feline urological syndrome.

2. Mrs. Grawl returned to Respondent's office on an emergency basis on March 7, 1991, because the cat continued to exhibit symptoms of feline urological syndrome. Respondent diagnosed Billy as suffering from a urinary obstruction and resultant distended urinary bladder. Respondent had observed extreme pain and distended bladder and Mrs. Grawl had reported the cat's inability to urinate.

3. Respondent administered 1.0 cc of Ketamine intramuscularly along with Acepromazine to anesthetize Billy in preparation for the passage of a urinary catheter to relieve the urinary obstruction.

4. Acepromazine is a veterinary sedative used in conjunction with other drugs to restrain animals prior to minor surgery.

5.. Ketamine is an anesthetic which requires ongoing monitoring to assure that the animal can maintain an airway during the surgical procedure. The administration of 1.0 cc of Ketamine with Acepromazine intramuscularly to a cat of Billy's weight, suffering from a urinary obstruction is excessive anesthesia and represents a deviation from the standard of care. Since Ketamine is excreted through the kidney, failure to open the bladder could have caused Billy's death. Elimination of the anesthetic from the

body could only be effected through the kidney, via a patent lower urinary tract. If administered alone, 1.0 cc of Ketamine is excessive. However, the addition of Acepromazine certainly made it excessive. In fact, by administering the Ketamine and Acepromazine, respondent exacerbated Billy's medical condition and jeopardized his recovery from the obstruction.

6. Respondent's failure to monitor said anesthesia placed Billy in a worse condition when he left respondent's office than when he arrived. His ability to recover from his medical emergency was jeopardized by his anesthetized state.

7. As a result of Mrs. Grawl's refusal to fill out financial information on a "hospital admittance form," respondent refused to continue treating Billy after he released the cat in an anesthetized condition to the care of his owner.

8. Urinary blockage in a cat is extremely painful and if untreated is characterized as an emergency situation and can result in death.

9. Veterinarians must provide emergency care.

10. Upon admittance on March 7, 1991 to Respondent's facility and the initiation of treatment, Respondent owed a duty of care to the cat, Billy and the cat's owner.

11. Respondent's refusal to treat Billy as a patient, constituted abandonment and represented a significant deviation from the standard of care for small animal practitioners practicing veterinary medicine

12. Respondent administered medication to the cat Billy that was not noted in Respondent's record of treatment. Respondent's testimony that he also administered Acepromazine to Billy in addition to the 1.0 cc of Ketamine was not supported by his medical record.

CONCLUSIONS OF LAW

The record clearly establishes by a preponderance of the evidence that respondent undertook to provide emergency treatment to Billy for a urinary obstruction, a painful and life threatening condition. Indeed he prepared the cat for a catheterization by administering an anesthesia, thus placing the cat at further risk. Unequivocally, his subsequent refusal to render emergency services by not removing the obstruction endangered the animal's life and represented gross malpractice in violation of N.J.S.A. 45:1-21(c), and professional misconduct in violation of N.J.S.A. 45:1-21(e). Respondent had a clear obligation to render treatment to Billy in these emergent circumstances, irrespective of the owner's willingness to pay or provide financial data. N.J.A.C. 13:44-2.10 expressly provides:

"Veterinarians shall provide emergency care"

This is not even a case where respondent declined to initiate treatment because of an owner's inability to pay. He began treating the animal and indeed because of the treatment rendered, further endangered the cat's life. The record

establishes that even if he had not abandoned the animal, the medication administered was improper and excessive. Respondent's conduct was in the view of the Board, unprofessional, reckless and callous. His actions not only evidence a lack of humane concern and compassionate care, but a substantial breach of professional standards to which all veterinarians must adhere. Respondent's failure to maintain accurate and complete records with regard to his treatment of Billy constitutes a violation of N.J.A.C. 13:44-2.12 and thus N.J.S.A. 45:1-21(h).

IT IS, THEREFORE, on this 11th day of October 1994,

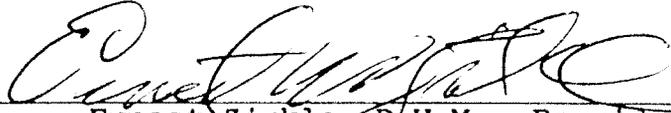
ORDERED, a one year suspension of the license heretofore issued to Respondent to practice veterinary medicine and surgery in the State of New Jersey and it is further

ORDERED that if Respondent is in compliance with the provisions of this Order, the one year suspension is hereby stayed and shall be served as a one year probationary period, and it is further

ORDERED that Respondent shall pay a civil penalty in the amount of \$5,000.00; which represents a penalty of \$2500 for his failure to render emergency services and his abandonment of Billy, as a patient, \$1000 for the improper dosage of anesthetic administered to the animal, \$1000 for failure to monitor the anesthetized animal, and \$500 for respondent's failure to maintain accurate and complete medical record, and it is further

ORDERED that the penalty of \$5000 is to be paid by means of a certified check or money order made payable to the State of New Jersey and submitted within 10 days of the service of this ORDER to the Board's Executive Director and it is further

ORDERED that Respondent shall pay costs in the amount of \$2,048.64, which includes investigative costs, fees for expert witnesses, and transcripts, made payable to the State of New Jersey, and submitted within 10 days of the service of this Order to the Board's Executive Director.



Ernest Zirkle, D.V.M., President
State Board of Veterinary Medical Examiners