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NEW JERSEY STATE BOARD OF
VETERINARY MEDICAL EXAMINERS
on this date of: 4-27-05

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF VETERINARY
MEDICAL EXAMINERS

CERTIFIED TRUE COPY

IN THE MATTER OF

SUZANNE GOVIER, D.V.M.

UNLICENSED PRACTICE OF
VETERINARY MEDICINE IN
THE STATE OF NEW JERSEY

Administrative Action

FINAL ORDER
OF DISCIPLINE

This matter was opened to the New Jersey State Board of Veterinary Medical Examiners (hereinafter the "Board") upon its review of a separate consumer complaint alleging professional misconduct on the part of one of its licensees in the treatment of an animal. The Board's investigation into this separate complaint revealed information which indicated that the respondent, Suzanne Govier, had subsequently examined the patient referenced in the complaint and had engaged in the unlicensed practice of veterinary medicine in the State of New Jersey. The Board, after its consideration of this matter, made the following findings of facts and conclusions of law:

FINDINGS OF FACTS

1. Dr. Govier graduated from Ross University School of Veterinary Medicine, in or about June 2000, with a Doctor of Veterinary Medicine degree. [See Exhibit "A"].

2. In an application dated on or about August 19, 2003, Dr. Govier applied to the Board for licensure by sitting for the Practical Examination in this State. This application was administratively denied for her failure to meet and satisfy New Jersey licensure requirements for graduates of veterinary institutions that are not accredited by the American Veterinary Medical Association. [See Exhibit "B"].

3. On or about November 20, 2003, "Bailey," a ten (10) year old male Cairn Terrier, was referred to Red Bank Veterinary Hospital ("Red Bank") for pancreatitis by his treating veterinarian. The Board's review of Bailey's medical records concerning treatment at Red Bank revealed that Dr. Govier had examined the dog, prescribed medication and referred Bailey for an abdomen ultrasound on or about November 22, 2003. Additionally, in copies of Red Bank invoices, Dr. Govier's name is provided in the column entitled "Staff," and is followed by the initials of "D.V.M." A copy of said medical records and invoices attached and incorporated herein. [See Exhibit "C"].

CONCLUSIONS OF LAW

1. The Board provisionally finds that Dr. Govier engaged in the unlicensed practice of veterinary medicine, during the course of her affiliation with Red Bank Veterinary Hospital, by examining Bailey Salzano in or about November 20, 2003 and referring the animal for diagnostic testing, specifically an abdomen ultrasound, in violation of N.J.S.A. 45:16-9 and N.J.S.A. 45:1-21(h).

2. The Board also provisionally finds that Dr. Govier's use of the initials "D.V.M." following her name on the November 2003 invoice concerning treatment provided to Bailey at Red Bank constitutes the unlicensed practice of veterinary medicine as detailed in N.J.S.A. 45:16-9. Since Dr. Govier performed these duties in 2003 and has not, to date,

been licensed in New Jersey as a veterinarian, the Board provisionally concludes that she engaged in the unlicensed practice of veterinary medicine in violation of N.J.S.A. 45:16-9.

DISCUSSION ON FINALIZATION

The State Board of Veterinary Medical Examiners is empowered and directed by statute to regulate the practice of veterinary medicine in this State to properly protect the citizenry and animals who utilize the services of a veterinarian by maintaining and ensuring standards of competency and integrity of the profession and preventing unsafe, fraudulent or deceptive practices which may damage the health of animals. [N.J.S.A. 45:16-1]. In furtherance of this public purpose, the Legislature has enacted N.J.S.A. 45:16-9. This statute prohibits any person from practicing or offering to practice veterinary medicine in this State unless such person is duly licensed by the Board.

Based on the foregoing findings and conclusions, a Provisional Order of Discipline, which concluded that the respondent had engaged in the unlicensed practice of veterinary medicine during the course of her affiliation with Red Bank Veterinary Hospital, was entered on October 14, 2004, and a copy was served on the respondent. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

In response to the Provisional Order, Lewis Cohn, Esquire, counsel for the respondent, submitted a written correspondence, dated November 10, 2004, for the

Board's review on Dr. Govier's behalf. In this document, counsel for Dr. Govier, not contesting the authority of the Board to enter this Order, requested that the Board dismiss or modify the findings of fact and conclusions of law detailed in the Provisional Order.

Specifically, the respondent argued initially that she had not engaged in the unlicensed practice of veterinary medicine in this State. Rather, she maintained that she accompanied other licensed veterinarians at the hospital during their rounds and acted only as a consultant to these licensees. Further, the respondent contended that her limited functions were performed under the supervision, and at the express direction, of a New Jersey licensed veterinarian. Hence, she argued her position at the hospital was analogous, or the "functional equivalent," to other permissible unlicensed positions associated with the practice of veterinary medicine, including that of a properly trained animal health technician or trained assistant. [See N.J.S.A. 45:16-8.1(6)].

Secondly, Dr. Govier maintained that she had a consulting arrangement with Red Bank Veterinary Hospital as authorized by N.J.S.A. 45:16-8.1(1). This statute enumerates certain conduct that is exempted from the practice of veterinary medicine. N.J.S.A. 45:16-8.1(1) specifically exempts the

. . . **calling into this State** for consultation of a duly licensed veterinarian of any other state with respect to any case under treatment by a veterinarian registered under the provisions of this act; . . . [N.J.S.A. 45:16-8.1(1); emphasis added].

Therefore, the respondent contends that her conduct with Red Bank constituted a permissible "consultation" arrangement consistent with the above cited statute. To support this conclusion, Dr. Govier asserts that there are no published or unpublished decisions

portion of the enabling statute. Additionally, the respondent furnished a letter from Anthony DeCarlo, V.M.D., Director of Red Bank, who advised that he had reviewed the parameters of the respondent's consulting arrangement with the Executive Council of the New Jersey Veterinary Medical Society, a professional society, who opined that the arrangement would not violate the mandates of N.J.S.A. 45:16-9.

In light of the conclusions made by the Board relative to Dr. Govier's involvement in the diagnosis and treatment provided to the male Cairn Terrier, Bailey, the respondent contended that all of her visits to patients in Red Bank were in the presence of a licensed veterinarian and that any functions she performed were after consultation with a licensed veterinarian. Finally, Dr. Govier contends that her name and/or initials were not on Bailey's medical records and/or invoices as a result of the computer billing generated by Red Bank and not as a result of any veterinary medical responsibilities performed or been assigned.

The respondent's submission was reviewed by the Board and the Board concluded that further proceedings were not necessary and that no material discrepancies existed. The Board also was not persuaded that the submitted materials merited further investigation. Specifically, the Board concluded that the respondent had in fact not engaged in the unlicensed practice of veterinary medicine.

The Board found the respondent's initial argument; that her position at Red Bank was "analogous" or the "functional equivalent" to the positions of veterinary assistant; to be disingenuous at best. The Board noted that N.J.S.A. 45:16-9 specifically exempts, from the practice of veterinary medicine,

Any properly trained animal health technician or other properly trained assistant, who under the responsible supervision and direction of a licensed veterinarian in his practice of veterinary medicine, if the technician or assistant does not represent himself as a veterinarian or use any title or degree pertaining to the practice thereof and does not diagnose, prescribe, or perform surgery; [N.J.S.A. 45:16-8.1(6)].

However, the Board's review of this matter found Dr. Govier's position to be completely different from and unrelated to those of a veterinary technician or assistant. Its consideration of the record in this matter revealed that the respondent was clearly identified in Red Bank, in person as well as in the medical records, as "Dr." Govier thereby representing and utilizing a title which without a doubt suggested that she is a veterinarian. This is contrary to the exemption language contained in N.J.S.A. 45:16-8.1(6).

Additionally, the Board concluded that the conduct of Dr. Govier of ordering diagnostic testing and prescribing certain medications for a patient clearly supercedes the authority granted to technicians or assistants in N.J.S.A. 45:16-8.1(6). Rather such conduct is solely within the parameters of a licensed veterinarian. Therefore, it is clear that the respondent's position at Red Bank was in no way analogous or the functional equivalent to that of veterinary technicians or assistants as contemplated by N.J.S.A. 45:16-8.1(6).

As to her second argument denying that she engaged in the unlicensed practice of veterinary medicine, the Board found that Dr. Govier's contention, that she acted only as a consultant, as authorized by N.J.S.A. 45:16-8.1, to licensed veterinarians at Red Bank, completely unpersuasive. The Board concluded that her conduct was not conducive to the interpretation contemplated by N.J.S.A. 45:16-8.1(1). The Board finds

that this subsection permits the "calling into" the State of New Jersey a veterinarian duly licensed in another state to assist and/or utilize the veterinary expertise of said veterinarian for a particular case or set of cases. The record in this matter revealed that Dr. Govier was never "called in" or summoned for the consultation on a particular case. Rather, she reported every day to Red Bank from in or about late September 2003, accompanied licensees on rounds in the hospital, performed certain functions on said rounds and was paid an annual fee of \$110,000.00 per year. The Board concluded that this conduct was not the type of conduct performed by a consultant, as contemplated by the applicable statute provision, but rather closer to that of a full-time employee.

Moreover, the Board specifically rejected the respondent's position that the definition of "consultation," under the applicable statutes, is vague or flexible since there are no reported decisions interpreting this portion of the statute. Rather, the Board concluded that the Legislature clearly defined "consultation" as the "calling into" New Jersey that of a duly licensed veterinarian of another State for assistance in a particular case or set of cases. This definition does not contemplate or suggest that the licensed veterinarian of another State could become an employee of the New Jersey licensee and circumvent the licensure requirements of this State while practicing veterinary medicine on a daily basis, as was the case in the present matter. Additionally, the Board parenthetically notes that it is not bound by the comments attributed to the Executive Director of the New Jersey Veterinary Medical Society who erroneously opined that Dr. Govier's conduct would not violate N.J.S.A. 45:16A-8.1.

Finally, the Board noted the respondent's explanation that Red Bank's computer software was responsible for the inclusion of her name on Bailey's Patient

History Report and that this was not indicative of any impermissible veterinary medical responsibilities on her part. Ultimately, however, the Board concluded that the inclusion of the respondent's name on the medical records as the staff member who had ordered and/or provided certain veterinary medical procedures and medications, including an abdominal ultrasound and the use of Ampicillin and Reglan injections, indicated that she had engaged in the unlicensed practice of veterinary medicine. The records reviewed by the Board failed to reveal or suggest that the respondent was supervised in any way by or consulted with New Jersey licensed veterinarians in this case. The conclusion of unlicensed practice was further supported, in the view of the Board, by the original consumer complaint which initiated the investigation into this matter, in which Bailey's owners identified Dr. Govier as one of the subsequent veterinarians who had treated the dog.

Therefore, the Board voted, for the reasons detailed above, to finalize the Provisional Order without modifications.

ACCORDINGLY, IT IS on this 27TH day of **APRIL 2005**

ORDERED that:

1. Dr. Govier shall hereby cease and desist from engaging in the unlicensed practice of veterinary medicine, contrary to the mandates of N.J.S.A. 45:16-9, until such time as she is licensed in the State of New Jersey as a veterinarian by the Board.

2. The respondent Suzanne Govier, D.V.M., is hereby assessed a civil penalty in the amount of **\$3,000.00** for engaging in the unlicensed practice of veterinary medicine in violation of N.J.S.A. 45:16-9 and N.J.S.A. 45:1-21(h).

NEW JERSEY STATE BOARD OF
VETERINARY MEDICAL EXAMINERS

By: Mark W. Logan VMD
MARK LOGAN, V.M.D.
President