

DOCKETED COMPLAINT NO. 1992-18

TEXAS BOARD OF VETERINARY	{}	TEXAS VETERINARY MEDICAL
MEDICAL EXAMINERS	{}	LICENSE NO. 4662
vs	{}	1992 RENEWAL CERTIFICATE
CYNTHIA A. RIGONI, D.V.M.	{}	NUMBER 4600

FINDINGS, CONCLUSIONS AND ORDERS OF THE BOARD

On the 11th day of June, 1993, the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS, being in regular meeting in the Fourth Floor Conference Room, Texas Dental Assn. Bldg., 1946 South IH-35, Austin, Travis County, Texas, such meeting being called for the purpose of considering the Proposal for Decision in the above numbered and entitled complaint as well as for consideration of other Board business. The above entitled and numbered complaint having been heard by Cathleen Parsley, Administrative Law Judge, State Office of Administrative Hearings, on December 1, 1992, and said Defendant, CYNTHIA A. RIGONI, D.V.M., having been duly notified and the following member of the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS being present:

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|------------------------------------|-------------------|
| Larry Dubuisson, D.V.M., President | of Kerrville, TX |
| Clark Willingham, Vice-President | of Dallas, TX |
| Al Hopkins, Jr., D.V.M., Secretary | of Dallas, TX |
| Olivia Eudaly, Member | of Ft. Worth, TX |
| Robert Lewis, D.V.M., Member | of Elgin, TX |
| Joyce Schiff, Member | of Dallas, TX |
| Guy Sheppard, D.V.M., Member | of San Angelo, TX |
| John Wood, D.V.M., Member | of Lufkin, TX |

At the appointed hour, the Vice-President of the Board, Clark Willingham ordered the case to proceed at which time it was ascertained that Cynthia A. Rigoni, D.V.M. was present, but was not represented by legal counsel.

The Board then reviewed a Proposal for Decision prepared by Cathleen Parsley, Administrative Law Judge, State Office of Administrative Hearings, and on the same day, June 11, 1993, all of the above members of said Board being present and participating with the exception of Larry Dubuisson, D.V.M. recused from voting since he served as Secretary of the Board in this case, makes the following findings:

FINDINGS OF FACT

1. Service of proper and timely notice of the rehearing was effected upon Cynthia A Rigoni, D.V.M. ("Dr. Rigoni").

2. Dr. Rigoni, D.V.M. is a veterinarian licensed by the State of Texas.
3. On September 6, 1991, Cindy St. Onge took her cat, Nikkos, to Dr. Rigoni's clinic to be neutered by her.
4. Ms. St. Onge gave instructions in Dr. Rigoni's presence that Nikkos was to be neutered only.
5. Ms. St. Onge did not give permission for Nikkos to be declawed.
6. Dr. Rigoni neutered Nikkos.
7. Dr. Rigoni began to declaw Nikkos, and had removed three of five claws on one paw when she realized that she was in error and performing a procedure that the owner had not authorized.
8. Dr. Rigoni continued to declaw Nikkos, and completed the unauthorized declawing knowingly.
9. After she completed the declawing, Dr. Rigoni telephoned Jim Cassidy, also Nikkos' owner to tell him of the error.
10. Dr. Rigoni admitted that she performed the declawing procedure accidentally and without the owners' permission.
11. Dr. Rigoni was disciplined by the Texas State Board of Veterinary Medical Examiners in June 25, 1992, in Docketed Complaint 1992-09 for failure to maintain records of controlled substances and failure to maintain patient records.

CONCLUSIONS OF LAW

1. The Texas State Board of Veterinary Medical Examiners has jurisdiction to decide this matter pursuant to the veterinary Licensing Act, Tex. Rev. Civ. Stat. Ann. art. 8890 (Supp. 1992) and all other applicable law.
2. Cynthia A Rigoni D.V.M., has violated 573.22 of the Rules of Professional Conduct, in that she failed to exercise the same degree of humane care, skill and diligence in treating patients as are ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community in which they practice, or in similar communities, to wit: by performing and continuing to perform an unauthorized procedure, as described in Findings of Fact Nos. 3-10.
3. Cynthia A. Rigoni, D.V.M., has violated S14(a)(5) of the Veterinary Licensing Act in that she has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with law, to wit: she fell

below the standard of care required by S573.22 of the Rules of Professional Conduct described in Conclusion of Law No. 2 by performing and continuing to perform an unauthorized procedure as described in Findings of Fact Nos. 3-10.

4. Cynthia A. Rigoni, D.V.M. has violated S14(a)(11) of the Veterinary Licensing Act in that she has performed or prescribed unnecessary or unauthorized treatment to wit: the unauthorized declawing as described in Findings of Fact No. 3-10.

5. Cynthia A. Rigoni, D.V.M., has violated S14(a)(15) of the Veterinary Licensing Act in that she has committed gross malpractice, to wit: knowingly continuing an unauthorized procedure, as described in Findings of Fact Nos 3-10.

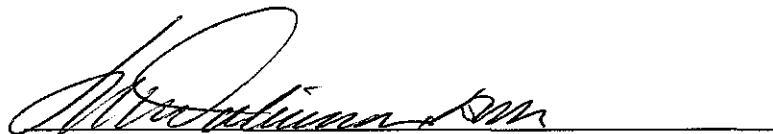
ORDERS

It is therefore ORDERED that license number 4662 heretofore issued to Cynthia A. Rigoni, D.V.M. by the Texas Board of Veterinary Medical Examiners, is hereby suspended for two years with the entire period being probated. A civil penalty in the sum of \$1,000.00 is hereby imposed on Cynthia A. Rigoni.

The foregoing Findings and Orders of the Texas State Board of Veterinary Medical Examiners are ORDERED to be entered as the FINDINGS AND ORDERS of the Board, a quorum and a majority of the members of such Board being present and participating in such hearing, deliberations and decision, and such FINDINGS AND ORDERS are made on the 11th day June, 1993, in Austin, Travis County, Texas.

As President of the Board I have been directed to prepare the Board's Findings and Orders in appropriate form and submit a copy of same to you.

Executed this 17th day of June, 1993.


LARRY M. DUBUISSON, D.V.M., President
Texas State Board of Veterinary Medical
Examiners

TEXAS STATE BOARD OF	§	BEFORE THE STATE OFFICE
VETERINARY MEDICAL	§	
EXAMINERS	§	
V.	§	OF
CYNTHIA A. RIGONI, D.V.M.	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

STATEMENT OF THE CASE

The Texas Board of Veterinary Medical Examiners (the "Board"), by and through Buddy Matthijetz, its Executive Director, and Larry Dubuisson, D.V.M., its Secretary, issued a complaint (the "Complaint"), giving notice of a hearing to be conducted for the purpose of considering taking disciplinary action against Cynthia A. Rigoni, D.V.M. ("Dr. Rigoni").

Present for the hearing on December 1, 1992, were Cathleen Parsley, Administrative Law Judge, State Office of Administrative Hearings; Christopher Maczka, Assistant Attorney General, counsel for the Board; and Dr. Rigoni.

The hearing was conducted pursuant to and under the authority of the State Office of Administrative Hearings, Tex. Rev. Civ. Stat. Ann. art 6252-13f (Supp. 1992) and the Rules of Procedure promulgated by the Office, 1 TAC §155.1 et seq.; the Administrative Procedure and Texas Register Act, Tex. Rev. Civ. Stat. Ann. art. 6252-13a (Supp. 1992); the Veterinary Licensing Act, Tex. Rev. Civ. Stat. Ann. art. 8890 (Supp. 1992) (the "Act"); and the Rules of the

Texas State Board of Veterinary Medical Examiners, 22 TAC §571.1 et seq. (the "Rules").

The hearing was had upon proper notice to all parties. The record was held open until January 4, 1993, for the submission by the parties of proposed findings of fact and conclusions of law.

The pertinent uncontested facts giving rise to this proceeding are as follows: On or about September 6, 1991, Cindy St. Onge took her cat, Nikkos, to Dr. Rigoni's clinic to be neutered. Ms. St. Onge specifically instructed Dr. Rigoni's receptionist that Nikkos was to be neutered only; she did not request that the cat be declawed. Later that day, Dr. Rigoni proceeded to neuter Nikkos, but she also removed three of the animal's claws before she realized that she did not have orders to declaw him. At that point she made the decision to proceed with a complete declawing of Nikkos. She notified the owners of her actions following completion of the procedures.

The Board asserts that Dr. Rigoni has violated §573.22 of the Rules in that she fell below the professional standard of humane treatment required of veterinarians in her community. It also argues that she is subject to disciplinary action for this incident under §14(a) of the Act because she engaged in practices which are violative of the standards of professional conduct; she performed unnecessary or unauthorized treatment; and she committed gross malpractice under §14(a)(15). The Board also points out that Dr. Rigoni was disciplined previously in 1992 as detailed in Finding of

Fact No. 11, and that a two-year probated suspension of Dr. Rigoni's license and a \$2,000 civil penalty is justified.

Dr. Rigoni does not contest that she declawed Nikkos without authorization; she argues that it was a mistake for which she apologized to Ms. St. Onge and Jim Cassidy, Nikkos' co-owner. She argues that completing the declawing once she had commenced the procedure was the better practice, in light of the allegedly profuse bleeding the cat was experiencing, and the fact that she thought that an incomplete declaw would prove to be unsatisfactory.

Pertinent statutory and regulatory provisions are stated, in whole or in part, in Appendix A hereto.

EVIDENCE PRESENTED

The evidence presented in this case consists of the live testimony of Ms. St. Onge; Jim Cassidy; Elaine Caplan, D.V.M.; and Dr. Rigoni; and certain documentary evidence.

Testimony of Cindy St. Onge

Ms. St. Onge is Nikkos' owner. She testified that she took Nikkos to Dr. Rigoni's clinic to be neutered only, and that she gave Dr. Rigoni's receptionist instructions to that effect in the veterinarian's presence. Her instructions were recorded on the consent form that she was required to sign. Ms. St. Onge did not want her cat declawed because she believe declawing causes unnecessary pain to the animal.

Testimony of Jim Cassidy

Mr. Cassidy is also Nikkos' owner. He testified that Dr. Rigoni telephoned him at his office on the morning of September 6,

1991, and informed him that Nikkos had been neutered, but that he had also been declawed by mistake. He stated that he is opposed to declawing because it causes unnecessary pain to the cat.

Testimony of Elaine Caplan, D.V.M.

Dr. Caplan is a veterinarian practicing in Houston, Texas; she has a specialty in companion animals, which includes dogs and cats. She testified that if a veterinarian begins to declaw a cat and then realizes that declawing is an unauthorized procedure, he or she should stop the procedure; continuing to declaw the cat falls below the average standard of care for a veterinarian and constitutes malpractice. To continue the procedure after the veterinarian becomes cognizant that it is unauthorized is gross malpractice. Dr. Caplan further stated that it is a breach of a veterinarian's legal and ethical duties to the animal's owner and a violation of the Act to perform a procedure that is not requested or authorized.

Testimony of Cynthia Rigoni, D.V.M.

Dr. Rigoni is a veterinarian practicing in Houston, Texas. She did not contest the fact that she declawed Nikkos without the owners' authorization; she asserts that it was a mistake and that she apologized to Ms. St. Onge and Mr. Cassidy, but that they were totally unreasonable. She stated that Nikkos suffered from excessive bleeding, and that she judged him to be a hemophiliac. Therefore, once she had begun the declawing procedure, she thought it best to continue and let hemostasis take place only once, rather than to bandage the paw, stop the bleeding, unbandage the paw, and

continue the declawing. Dr. Rigoni testified also that it was her experience that cats with only one declawed paw do not do as well as if they were completely declawed, and she believed that she was medically correct to have completed the declawing procedure on Nikkos.

ANALYSIS

The record reflects that Dr. Rigoni has committed gross malpractice in this case. It is clear that she did not ever intend to harm Nikkos, but there is a clear showing that she fell below the standard of care required of a veterinarian by consciously continuing a procedure that was unauthorized in the first place.

The evidence shows that Dr. Rigoni removed three of five of Nikkos' claws on one paw when she realized that she was in error. At that point, she should have stopped the procedure. There was testimony to the effect that a cat can live a perfectly normal life with an incomplete set of claws, and no showing here that such would not have been the case for Nikkos. To have continued to declaw Nikkos after she realized the procedure was unauthorized was gross malpractice, and plainly below the standard of care called for by the Act and the Rules. Furthermore, Dr. Rigoni breached her duty to the animal's owners by performing the unauthorized declawing.

RECOMMENDATION

The Administrative Law Judge recommends that Dr. Rigoni's license be suspended for two years, that the suspension be probated, and that a civil penalty of \$2,000 be imposed.

FINDINGS OF FACT

1. Service of notice of the hearing was effected upon Cynthia A. Rigoni, D.V.M. ("Dr. Rigoni").
2. Dr. Rigoni, D.V.M. is a veterinarian licensed by the State of Texas.
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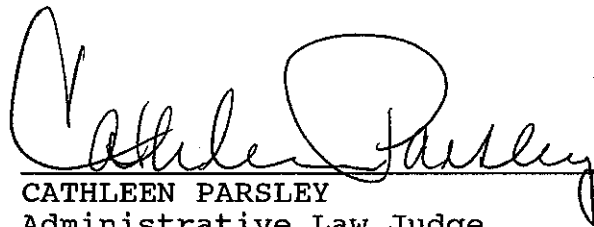
CONCLUSIONS OF LAW

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2. Cynthia A. Rigoni, D.V.M., has violated §573.22 of the Rules of Professional Conduct, in that she failed to exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community in which they practice, or in similar communities, to wit: by performing and continuing to perform an unauthorized procedure, as described in Findings of Fact Nos. 3-10.
3. Cynthia A. Rigoni, D.V.M., has violated §14(a)(5) of the Veterinary Licensing Act in that she has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with law, to wit: she fell below the standard of care required by §573.22 of the Rules of Professional Conduct described in Conclusion of Law No. 2 by performing and continuing to perform an unauthorized

procedure as described in Findings of Fact Nos. 3-10.

4. Cynthia A. Rigoni, D.V.M., has violated §14(a)(11) of the Veterinary Licensing Act in that she has performed or prescribed unnecessary or unauthorized treatment, to wit: the unauthorized declawing as described in Findings of Fact Nos. 3-10.
5. Cynthia A. Rigoni, D.V.M., has violated §14(a)(15) of the Veterinary Licensing Act in that she has committed gross malpractice, to wit: knowingly continuing an unauthorized procedure, as described in Findings of Fact Nos. 3-10.
6. Cynthia A. Rigoni, D.V.M.'s license to practice veterinary medicine should be suspended for two years; the suspension should be probated; and a civil penalty of \$2,000 should be imposed.

SIGNED this 28th day of January, 1993.



CATHLEEN PARSLEY
Administrative Law Judge
State Office of Administrative Hearings

APPENDIX A

Section 14(a) states in pertinent part as follows:

[T]he Board may revoke or suspend a license, impose a civil penalty, place a person whose license has been suspended on probation, or reprimand a licensee, ...after notice and hearing as provided in Section 15 of this Act, or as provided by the rules of the Board, if it finds that an applicant or licensee:

(5) has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with law;

(11) has performed or prescribed unnecessary or unauthorized treatment;

(15) has committed gross malpractice or is guilty of a pattern of acts indicating consistent malpractice, negligence, or incompetence in the practice of veterinary medicine;

Section 573.22 of the Rules of Professional Conduct, pertaining to the professional standard of humane treatment, states as follows:

Veterinarians shall exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community in which they practice, or in similar communities.