

TEXAS VETERINARY LICENSE NO. 2455

IN THE MATTER	§	BEFORE THE EXECUTIVE
OF	§	DISCIPLINARY COMMITTEE
THE LICENSE	§	OF THE TEXAS BOARD
OF	§	OF VETERINARY MEDICAL
MILLARD LUCIEN TIERCE, III, D.V.M.	§	EXAMINERS

ORDER OF TEMPORARY SUSPENSION  
(WITHOUT NOTICE OF HEARING)

On April 30, 2014, came to be heard before the Executive Disciplinary Committee of the Texas Board of Veterinary Medical Examiners (the "Board"), composed of Bud E. Alldredge, Jr., D.V.M., President/Chair, Todd Henry, D.V.M., and Jim McAdams, members of the Board (the "Panel") duly in session, the matter of the Application for Temporary Suspension of the license of Millard Lucien Tierce, III, D.V.M. ("Respondent"). Respondent did not appear in person and Jonathan Crabtree, Staff Attorney, represented Board Staff. Based on evidence submitted, the Board through this panel makes the following Findings of Fact and Conclusions of Law and enters this Order of Temporary Suspension:

FINDINGS OF FACT

1. Respondent is a Texas veterinarian and holds Texas Veterinary License No. 2455, issued by the Board on September 1, 1966, which was in full force and effect at all times material and relevant to this Order. All jurisdictional requirements have been satisfied.
2. Bud E. Alldredge, Jr., D.V.M., President of the Board appointed himself Chair, as well as Todd Henry, D.V.M., and Jim McAdams, members of the Board to sit as the Executive Disciplinary Panel in this matter, pursuant to the Veterinary Licensing Act, TEX. OCC. CODE ANN. Title 4, (the "Act") §801.409(a) and 22 TEX. ADMIN. CODE §575.35.
3. The Panel convened without Notice, pursuant to §801.409(c) of the Act.
4. Marian and James Harris ("Complainants") filed a complaint with the Board on April 22, 2014. The Complainants stated that they took their 170 lb. Leonberger canine, Sid, to the Camp Bowie Animal Clinic ("Clinic"), which Respondent owns, in May 2013 for a minor anal gland issue. According to the Complainants, Respondent wanted to perform cold laser therapy on the anal glands and to keep Sid at the clinic to do that.
5. Four months later, the Complainants visited the clinic and asked to see Sid. Up until that time, the Complainants were consistently told that Sid was improving but it would take more time. However, when Sid was presented he could not lift his hind quarters and slid across the floor to get to Mr. Harris. According to Mr. Harris, Respondent stated that Sid could not walk

because of a reaction to medication, which caused a drop in blood pressure. Respondent did not believe this to be a great concern. Complainants' trusted that their veterinarian knew best and that he was acting in the best interests of Sid.

6. In early October 2013, Respondent suggested using Sid, who was still at Respondent's clinic, to calibrate his portable x-ray machine as another dog belonging to the Complainants needed to have an x-ray. After reviewing the x-ray of Sid, Respondent discovered a congenital birth defect in Sid's spine. Respondent stated that there was nothing that could be done for the condition. At that time, the Complainants elected to euthanize Sid rather than have him remain in constant pain with no chance of recovery. The Complainants and their son all told Sid good-bye after again being told that nothing could be done for Sid's condition.

7. In April 2014, Complainants were alerted by Mary Brewer, a veterinary technician from the Clinic, that Sid was still alive and that Sid was being kept in a cage at the Clinic for 23.5 hours a day while being experimented on. The veterinary technician from the Clinic also stated that several other animals were being kept in cages for 23.5 hours a day while being experimented on. Shortly after being alerted to this situation, Complainants then went to the Clinic and removed Sid from Respondent's care. Respondent then admitted to the Complainants that he had kept Sid alive and at his Clinic even though they had paid for euthanasia and thought that Sid had been euthanized.

8. On April 29, 2014, Board investigators initiated a routine inspection of the Clinic. During the course of their inspection, the Board investigators witnessed and took video recordings of unsanitary conditions of the Clinic. Animal organs were kept in jars throughout the clinic. Bugs were visible in exam rooms. Stacks of drugs, trash, laundry, paperwork, and other miscellaneous material were strewn about the examination rooms, hallways, stairwells, operating room, laboratories, and offices of the Clinic. Open and unsecured medications, including some controlled substances, were also strewn about the clinic and in such a fashion that controlled substances could easily be stolen and abused by employees, clients, or visitors of the Clinic.

9. Board investigators also received a signed and handwritten statement from Respondent that he had accepted five animals for euthanasia at his Clinic and proceeded to not euthanize the animals. Respondent acknowledged that it was a violation to accept Sid for euthanasia and not perform the euthanasia. Respondent told one of the Board investigators that it was his decision, and not the decision of the animal owner, whether or not an animal should be euthanized. Respondent also acknowledged that parts of his clinic were unsanitary.

10. The Ft. Worth police department also came to Respondent's clinic on April 29, 2014 and eventually brought in Michael Morris, D.V.M., who identified three dogs, one of which Respondent identified as his own dog, as being in such decrepit shape that they had to be euthanized. Respondent admitted that two of those dogs and two other animals at his Clinic were left at his Clinic to be euthanized. Additionally, one of the other two animals had been kept at his Clinic in a cage for two to three years after it he had accepted it for euthanasia.

11. On April 30, 2014, an arrest warrant was issued against Respondent for animal cruelty for his treatment of a dog that Michael Morris, D.V.M., declared should have been put to sleep when

it was accepted from treatment by Respondent. Respondent identified this as his own dog and that in his own professional opinion the dog should have been euthanized.

12. The Board's Rules of Professional Conduct, 22 TEX. ADMIN. CODE §§ 571-577, (Board's Rules or Board Rule) govern the actions of licensed veterinarians when practicing veterinary medicine.

13. Board Rule 573.11, RESPONSIBILITY OF UN-LICENSED EMPLOYEES, states that a licensed veterinarian in Texas "shall be responsible for any acts a non-veterinarian employee commits within the scope of the employee's employment."

14. Based on the foregoing paragraphs, the Board alleges that Respondent has violated §801.402 (4), (6), and (16) of the Veterinary Licensing Act, Occupations Code, and is therefore subject to disciplinary action by the Board:

801.402. GENERAL GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION. A person is subject to denial of a license or to disciplinary action under Section 801.401 if the person:

(4) engages in dishonest or illegal practices in, or connected with, the practice of veterinary medicine or the practice of equine dentistry;

(6) engages in practices or conduct that violates the board's rules of professional conduct;

(16) commits gross malpractice or a pattern of acts that indicate consistent malpractice, negligence, or incompetence in the practice of veterinary medicine or the practice of equine dentistry...

#### CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Panel concludes the following:

1. Based on the above Findings of Fact, the Panel, including two veterinarians licensed to practice veterinary medicine in this state, finds that the Respondent is a continuing threat and real danger to the health of the Respondent's patients and/or to the public from the acts or omissions of Respondent caused through Respondent's repeated and continued violations of the Act.

2. Based on the above Findings of Fact, the Panel finds that the continued practice of veterinary medicine by Respondent constitutes a continuing or imminent threat peril to the public welfare that requires immediate effect of this Order of Temporary Suspension on the date rendered.

3. Section 801.409 of the Act authorizes the Panel to temporarily suspend or restrict the veterinary license of Respondent if the Panel determines from evidence presented to it that the Respondent's continuation in the practice of veterinary medicine would constitute a continuing or imminent threat to the public welfare.

4. Section 801.409 of the Act authorizes the Panel to temporarily suspend or restrict the license of the Respondent in a proceeding without notice, if at the time the suspension is ordered, a hearing on whether disciplinary proceedings under this chapter should be initiated against the Respondent is scheduled to be held not later than the 14th day after the date of the suspension.

5. Based on the evidence presented and the Findings of Fact set forth herein, Respondent has violated Rule 573.4, ADHERENCE TO THE LAW, which prohibits veterinarians from committing any act that is in violation of the laws of the State of Texas, other states, or of the United States, if the act is connected with the licensee's professional practice, including, but not limited to, the acts enumerated in §575.50(e) of this title (relating to Criminal Convictions). An arrest warrant was issued against Respondent on animal cruelty charges on April 30, 2014 with regards to an animal that he housed in his Clinic. Additionally, Respondent committed the crime of animal cruelty twice more by failing to euthanize the two other animals that was in his care, but still declared by a veterinarian to be in so poor of shape that it needed to be euthanized. Respondent thus, violated Board Rule 573.4.

6. Based on the evidence presented and the Findings of Fact set forth herein, Respondent has violated Rule 573.22, PROFESSIONAL STANDARD OF CARE, which requires veterinarians licensed in Texas 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. Throughout Texas, the standard of care for euthanasia is to euthanize that animal on the same day that it is left for euthanasia, without subjecting the animal to further suffering and to euthanize an animal when the animal is in pain and nothing can be done for alleviate that pain. Because Respondent failed to euthanize Sid and at least three other animals when they were left at his Clinic to be euthanized and because Respondent failed to euthanize his own dog when in his own professional judgment his dog should have been euthanized, Respondent did not provide the same degree of treatment as is ordinarily used by veterinarians in Ft. Worth or similar communities. Respondent thus, violated Board Rule 573.22 five times.

7. Based on the evidence presented and the Findings of Fact set forth herein, Respondent has violated Rule 573.27, HONESTY, INTEGRITY, AND FAIR DEALING, which requires veterinarians licensed in Texas to conduct their practice with honesty, integrity, and fair dealing to clients in time and services rendered, and in the amount charged for services, facilities, appliances, and drugs. By Respondent's own admission, he accepted at least five animals for euthanasia, told the owners that he would euthanize their animal, and did not perform the euthanasia. That conduct is not honest, fair, or done with integrity. Respondent thus, violated Board Rule 573.27 five times.

8. Based on the evidence presented and the Findings of Fact set forth herein, Respondent has violated Rule 573.61, MINIMUM SECURITY FOR CONTROLLED SUBSTANCES, which requires a licensed veterinarian in Texas to establish adequate security to prevent unauthorized access to controlled substances, establish adequate security to prevent the diversion of controlled substances, during the course of business activities, not allow any individual access to controlled substances storage areas except those authorized agents required for efficient operations, and controlled substances listed in Schedules I, II, III, IV, and V shall be stored in a

securely locked, substantially constructed cabinet or security cabinet. Board investigators found Respondent's controlled substances unlocked, unsecured, and laying about the Clinic during the Board's inspection of Respondent's Clinic. Respondent thus, violated Board Rule 573.61.

9. Based on the evidence presented and the Findings of Fact set forth herein, Respondent has violated Rule 573.79, MAINTENANCE OF SANITARY PREMISES, which requires a licensed veterinarian in Texas to maintain their offices/clinics/hospitals in a clean and sanitary condition without any accumulation of trash, debris, or filth. Respondent kept his Clinic covered in trash, drugs, laundry, papers, and various articles. Respondent thus, clearly violated Board Rule 573.79.

10. Based on the evidence presented and the Findings of Fact set forth herein, the Panel finds that Respondent violated various sections of the Act, specifically Sections 801.402 (4), (6), and (16) of the Act, which authorizes the Board to take disciplinary action under Section 801.401 against the Respondent if the Respondent engages in dishonest or illegal practices in, or connected with, the practice of veterinary medicine, engages in practices or conduct that violates the Board's rules of professional conduct, or commits gross malpractice or a pattern of acts that indicate consistent malpractice, negligence, or incompetence in the practice of veterinary medicine.

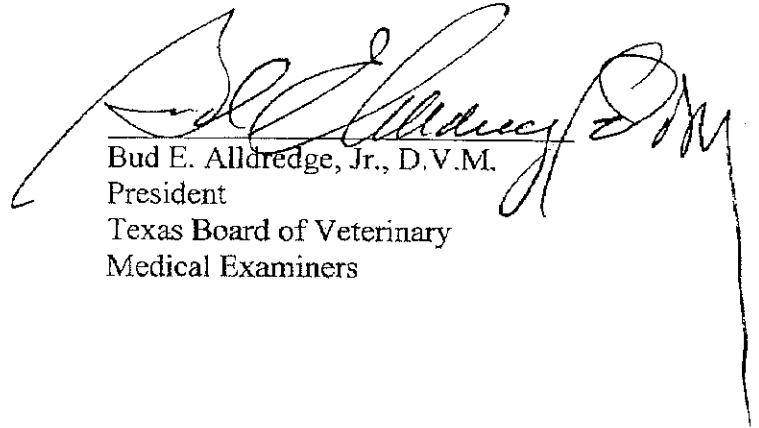
11. Based on the evidence presented and the above Findings of Fact and Conclusions of Law, the Panel determines that Respondent's continuation in the practice of veterinary medicine would constitute a continuing threat to the public welfare.

#### ORDER

Based on the above Findings of Fact and Conclusions of Law, the Panel ORDERS that:

1. Respondent's Texas veterinary license is hereby TEMPORARILY SUSPENDED.
2. This Order of Temporary Suspension (WITHOUT NOTICE OF HEARING) is final and effective on the date rendered.
3. Notice of this Order of Temporary Suspension (WITHOUT NOTICE OF HEARING) shall be given immediately to Respondent.
4. A hearing on the Application for Temporary Suspension is hereby scheduled before the Board's Enforcement Committee to be held on May 5, 2014, at 4:00 p.m. at the offices of the Board.
5. This Order of Temporary Suspension (WITHOUT NOTICE OF HEARING) shall remain in effect until such time as a hearing on the Application for Temporary Suspension is conducted and the Enforcement Committee enters an order or until superseded by an Order of the Board.

Signed and entered this April 30, 2014.



Bud E. Alldredge, Jr., D.V.M.  
President  
Texas Board of Veterinary  
Medical Examiners