

# NORTH CAROLINA VETERINARY MEDICAL BOARD

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October 17, 2001

*Via Certified Mail,  
Return Receipt Requested*

Dana R. Jones, D.V.M.  
Durant Road Animal Hospital & Kennel, PLLC  
10220 Durant Road  
Raleigh, NC 27614

*Letter of Reprimand  
Board Rule .0601(h)*

Re: File No. 00006-1-1  
Nancy G. Deas and Edna E. Deas  
Raleigh, N.C.

Dear Dr. Jones:

I write on behalf of the North Carolina Veterinary Medical Board and its Committee on Investigations No. 1 to explain the decision of the Committee and the Board on the complaint by Nancy and Edna Deas (hereafter the "Deases") regarding your care and treatment of their dog Alex, a 14-year-old Manchester terrier. The complaint was filed against both you and Dr. Kevin A. Monce. The decision of Committee 1 with respect to Dr. Monce is dealt with in a letter to him.

The decision of Committee 1 is to issue you a letter of reprimand pursuant to Board Rule .0601(h). Please review the provisions of that Rule and follow them if you choose to reject the reprimand and to request a hearing before the Board. If you accept the reprimand, nothing further is required.

By copy of this letter, the Committee and the Board express their condolences to the Deases over the loss of Alex.

### Board Investigative Procedure

The Veterinary Medical Board regulates veterinary medicine in the State pursuant to the Veterinary Practice Act. Written complaints to the Board are investigated by one of its three-member Committees on Investigation (in this case, Committee No. 1), which reviews the materials relevant to the complaint to determine whether there is probable cause that the veterinarian

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complained of violated the statutes and/or administrative rules governing veterinary medicine. A Committee follows Board Rule .0601, copy enclosed, in conducting the investigation.

Several hundred pages of materials were reviewed by the Committee on this and the Board-initiated complaint, file no. 00048-1-1. The Committee also interviewed you, Dr. Monce and the Deases. A number of issues and questions were presented by the complaint, all of which have been considered by the Committee. The Committee has identified the relevant issues of this complaint, has made findings and decision on the issues.

*Summary of Chronology and Complaint Allegations*

The Deases allege that the medical care by you for Alex was negligent during the period December 28, 1999 through January 3, 2000. Alex was presented to you with Deases' complaint of his not eating well, seeming to be weak and unsteady, and with possible weight loss. Blood was drawn, and the following day you communicated to the Deases results of the tests, the most remarkable which was elevated liver enzymes. You offered to discuss the case the following week with Dr. Kevin Monce, from whom Alex had previously received veterinary medical treatment. Nancy Deas thereafter called Dr. Monce and described Alex's symptoms.

Alex's loss of interest in eating continued to increase on December 30. He was walking more slowly and unsteadily, occasionally bumping into objects. In responding to Nancy Deas' call that day, you indicated Alex might later need fluids. On December 31, Alex refused to eat but was drinking and urinating. The Deases then presented Alex to you, and the Deases believed his behavior was more listless than several days previously during the ride to your facility, Durant Road Animal Hospital & Kennel, PLLC (the "Hospital").

You examined Alex and informed the Deases that Dr. Monce would perform a liver biopsy. This procedure would be performed in the place of an electrocardiogram the Deases has planned for January 12 with Dr. Bob English. You determined Alex had a "bad disc" and that he needed fluids. You advised the Deases not to let him jump down stairs. You took Alex into the laboratory while the Deases waited outside. The complaint alleges that when you returned Edna Deas noticed the dog's lower left canine tooth was missing. Nancy Deas later recalls she had noticed the tooth missing on December 28.

On January 2 by late morning Alex had refused all food except for three or four very small pieces of ham. He also refused to drink and had not urinated. His appetite was still weak the remainder of the day. This condition continued into January 2 and the Deases presented Alex to you shortly after 2:30 p.m. You administered fluids.

On January 3 Dr. Monce returned the Deases' call from the previous day and discussed their

concerns. Nancy Deas asked whether there was an incident in the laboratory December 28 in which the dog may have been injured or jumped from the table while blood was drawn. She asked in addition to the liver consultation that Dr. Monce "take charge and look Alex over to make sure that he is O.K."

At about 11:00 a.m. the Deases present Alex at your office. Dr. Monce was present with his trailer. He was assisted by Renee Dailey Daniel. You accompanied Nancy as she took Alex to the trailer. Ms. Dailey conducted an ultrasound test on Alex's abdomen. Prior to completion of the ultrasound, Dr. Monce informed the Deases he will need to sedate Alex. Dr. Monce differed from Nancy Deas in his assessment of Alex's weight: he estimates 16 pounds; Nancy responded that his usual weight is 12 but that he had lost weight. Dr. Monce at Nancy's request listened to Alex's heart for approximately two to three minutes before administering the injection of anesthesia, which acts in fewer than 30 seconds. Ms. Dailey continued the ultrasound test and reported the liver was enlarged and the edges rounded. Ms. Dailey found enlarged adrenal glands with a tumor in the left gland. Other findings from the ultrasound were a thickened gall bladder, and pleural effusion. The pancreas appeared normal.

Nancy Deas asked Dr. Monce whether it would not be "the kindest thing to euthanize Alex and not proceed (with the biopsy)?" Dr. Monce replied in the negative. Dr. Monce performed the needle biopsy, guided by Ms. Dailey's ultrasound image. Present in the trailer were Dr. Monce, Ms. Dailey, Nancy Deas, and for period of time you. The biopsy of the spleen was placed on the slide. He obtained tissue and fluid samples and performed a biopsy on Alex's liver. Dr. Monce said that his first impression was hepatitis. Dr. Monce also obtained fluid from the area around the abdomen. Nancy carried Alex back into the Hospital.

Alex was placed on a table where Nancy believes the isoflurane was present, but she could not tell whether it was administered. You prepared to remove the tooth root and examine his mouth. You determined that the dog's jaw was broken. Dr. Monce examined it and said "that it is just cartilage" and pointed to the area at the center of the chin to show Nancy where he thought the problem was. Nancy's mother had said Alex had jumped off a chair, but Nancy told you that after further talking to her mother, Nancy believed Alex jumped approximately 19½ inches off of an upholstered chair and landed on his feet but did not fall flat down. Her mother could not be sure whether the dog hit his chin or not but the floors are wood and there is a mat in front of the chair. Dr. Jones removed the root and sutured the site. Dr. Hostettler cut Alex's nails and packed them with medicine.

The Deases allege that approximately 12:30 p.m. you checked Alex and reported he needs to swallow in order to "get the tube out." You found that his gums are "a little pale." At this point Nancy Deas alleges that she heard you say the word "curarine" to Dr. Monce, and that he replied in the affirmative. This alarmed her because you and Dr. Monce had said that Dr. English would use the drug to paralyze the Deases' other dog, Gus, during the dog's cataract surgery the previous

September.

Alex had difficulty awakening. You and Dr. Monce conferred and you administered an injection of dexamethasone, and drew blood for a CBC. You took Alex across the hall for radiographs, and then returned him to the table. At this point your colleague Dr. Jeannine M. Hostettler returned and showed Dr. Monce one to two pages of white paper which Nancy thought might be the CBC results. Ointment was placed in Alex's eyes. You determined the x-rays showed no disc problem. Nancy noticed Alex's eyes were partially open and staring, although she thought he was still asleep. She waited in the examination room for Alex to awaken.

At 2:00 p.m. you gave Nancy two pill containers and reviewed instructions about their administration. At 4:30 p.m., although Alex was not awake, you informed her that she could take Alex home if she wished.

At home at approximately 5:00 p.m. Alex appeared asleep, and his eyes were glazed, with ointment still in them. The Deases did not notice anything difficult about his breathing. At 10:30 p.m. Alex began rapid, labored breathing. The Deases called you, and you met them at the Hospital. You determined that Alex's condition was "dry." You gave Alex water and drew his blood for a PCV test, the results of which were "not too bad." You administered fluids subcutaneously. You advised the Deases to keep Alex warm, and loaned them a heating pad.

The Deases attempted to keep Alex warm, but a few hours later, at 12:30 a.m. January 4 Nancy called Dr. Monce at home. She related to him your treatment earlier that evening and that Alex had not awakened, and was making "strange" barking-like sounds. Dr. Monce described a condition called "hepatic encephalopathy" and said the Deases needed to administer an enema to the dog. He advised that they buy and administer one half of a Fleet brand enema or a comparable quantity of water with dish detergent.

The Deases called you and you reportedly heard Alex's barking sounds. They informed you of Dr. Monce's advice. You then advised them to take Alex to an emergency clinic. Although you thought they could not get into NCSU Veterinary Teaching Hospital, you gave them the telephone number. You asked that they call you back with a decision.

Nancy called Dr. Monce to inform him that you said that Alex needed to be hospitalized. Dr. Monce asked if they gave the enema. Nancy alleges that Dr. Monce seemed to recommend their not going to NCSU-VTH. He recommended that they go to Animal Emergency Clinic of Cary, and further recommended treatment for hepatic encephalopathy. Dr. Monce stated that Alex had liver disease and needed saline intravenously, as well as enemas. He says the treatment could take two days. Nancy called the emergency clinic to inform them that they were bringing the dog there and provided Dr. Monce's home telephone number and asked that the staff call him. Nancy called to

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inform you that they were going to Animal Emergency Clinic of Cary. You said if Dr. Ronald Feimster was on duty, to alert him about giving fluids, because Alex has already had them. You were concerned about overloading Alex's heart. Alex had been given 275 ml of lactated ringers solution.

At the facility the Deases reviewed with Dr. Feimster Dr. Monce's recommendations, and gave him the information about the quantity of fluids. Dr. Feimster then called Dr. Monce. Dr. Feimster talked with the Deases about three possibilities: late abdominal bleeding from the biopsy; hepatic encephalopathy; and neurological problems. Dr. Feimster responded to Edna Deas that the prognosis was "end-stage". There were several questions and responses between Edna and Dr. Feimster about whether Alex was suffering and in pain. Eventually Dr. Feimster determined that Alex had severe acidosis. The Deases consented to Dr. Feimster's trying sodium bicarbonate and later, to her removing abdominal fluid. Dr. Feimster then calculated Alex's chances at "50-50 until morning." Dr. Feimster did not think Alex's problem was adrenal, but was a brain lesion. After more questioning and examination, Dr. Feimster determined that Alex was in renal failure.

Because of Alex's condition as determined by Dr. Feimster, and because of his physical condition, Nancy and Edna Deas consented to euthanization, which was accomplished at 3:30 a.m. Nancy left messages on your and Dr. Monce's respective business answering machines that the reason Alex was euthanized at 3:30 a.m. for renal failure.

General Complaint Issues as Determined by Committee No. 1

Attached to the Deases' complaint was an extensive list of approximately 39 questions, many with subparts. Committee 1 has organized the questions into a series of issues. The following issues relate to the complaint against you:

1. Was your diagnosis, care and treatment of Alex on or about January 3, 2000 competent, and did it meet the minimum standard of veterinary care?
2. Did you appropriately and effectively communicate to Nancy and Edna Deas about Alex's condition, and your diagnosis and treatment?
3. Did you cause or allow trauma to Alex resulting in an injury to his jaw or a tooth on or about December 28, 1999, when he was in your care?
4. Did you maintain veterinary medical records at the Hospital with respect to Alex that complied with Board Rule .0207(b)(12) regarding minimum standards for recordkeeping?
5. In your treatment of Alex over the several days in question, did you use appropriate diagnostics; was Alex given appropriate medicines in appropriate dosages; and what is the general

evaluation of your care of Alex?

Discussion

Committee 1 addresses the foregoing issues with the following findings and points. Some of the findings relate to more than one issue. The Committee has determined that the cumulative result of its findings, discussed below, necessitate a finding of probable cause of violation of N.C. Gen. Stat. § 90-187.8(c)(6), that your diagnosis, care and treatment was not competent and did not meet the minimum standard of veterinary medical care. Rather than send this matter to a formal hearing, the Committee has instead issued you a letter of reprimand pursuant to Board Rule .0601(h).

North Carolina General Statute § 90-187.8(c)(6) provides as follows:

(c) Grounds for disciplinary action [by the Board] shall include but not be limited to the following:

\* \* \* \*

(6) Incompetence, gross negligence, or other malpractice in the practice of veterinary medicine.

\* \* \* \*

1. With respect to your care on January 3, 2000:

(a) Should you have discharged Alex to home at approximately 4:30 p.m.? Valium, ketamine and acepromazine had been administered to him at approximately 11:30 a.m. that day, and Alex was still drowsy at 3:00 p.m. You checked him again at 4:30 p.m. and the Committee does not find probable cause that you violated the competency practice standard by discharging Alex at this time.

(b) Between approximately 1:15 p.m. and 4:30 p.m., did your care meet the practice standard? No. You should have been more attentive to Alex that afternoon, and you should have attempted everything available to you to awaken the dog. Alex was groggy, and intravenous fluids should have been administered. You should have been more aware that Alex was having difficulty waking, which condition should have called for more supportive care.

(c) Was your treatment adequate when the Deases presented Alex at approximately 11:00 p.m.? No. You should have been more aggressive in this treatment, including the administration of intravenous fluids. You should have then referred Alex to an emergency or specialty facility.

(d) What relevance, if any, is the question of whether Alex had been administered isoflurane? None. The fact is, Alex was at a plane of anesthesia adequate for the procedures performed. The Committee has reviewed all of the pages of Dr. Monce's drug log. Does the evidence support a reference, as alleged by the Deases, to the word "curarine" being said? No. There is no evidence of administration of curarine to Alex. Further, the Committee's investigation into the records of wholesale purchases of controlled drugs by Dr. Monce showed no evidence of any purchase of curarine, a rare drug. Also, its lasting effect is for a very short time, usually less than 15 minutes.

(e) An issue was raised as to whether you should have attempted to obtain the tissue slides from Antech Laboratories. The Committee does not find that it was incumbent upon you to obtain these slides once the Deases canceled the pathology request following Alex's death.

(f) What condition or disease was Alex suffering from that caused him to deteriorate to the point that the Deases agreed to his euthanization on January 4? The Committee has reviewed all the information presented in the context of addressing the complaints of whether Alex was given appropriate care on January 3, 2000. The Committee has not attempted to set forth in this letter a theory as to the cause for Alex's grave condition. It appears multiple factors were involved, including his age. The Committee cannot and chooses not to speculate as to the cause.

2. Primary Veterinarian -- You as a primary veterinarian for Alex were ultimately responsible for his care, part of which took place in a trailer facility located in the Hospital parking lot. The trailer, used by Dr. Monce for the delivery of veterinary services, had not been inspected and approved by the Board for the delivery of such services. While under your general supervision, you allowed Alex's treatment to be conducted outside of your physical facility, which had been approved by the Board for the delivery of your medical services.

The Committee does not necessarily find on this point that Alex's treatment in an uninspected facility was an incompetent act by you, because you did not know it was not approved. However, you unwittingly aided and abetted Dr. Monce's practice in an uninspected facility. When you have engaged the services of a fellow veterinarian to treat a patient, you must take reasonable measures to determine the veterinarian's qualifications. The Committee acknowledges this was an unusual case, given the fact that you and Dr. Monce had worked with each other for a period of time. Nevertheless, you must share responsibility for the error taking the dog outside the Hospital premises approved for your delivery of veterinary medical services.

3. Jaw Injury Did your care or treatment cause Alex's broken jaw? The Committee finds no evidence of pathology or cause of the broken jaw and missing tooth. The Committee cannot determine whether the jaw separation was by reason of breakage or because of a deossification or decalcification. Alex's symptoms of poor eating pre-dated December 28 and were not attributable to an injury to his jaw or tooth on that date. The facts simply do not show probable cause of

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to an injury to his jaw or tooth on that date. The facts simply do not show probable cause of negligence or mistreatment as the reason for this injury. Therefore, the Committee finds no probable cause.

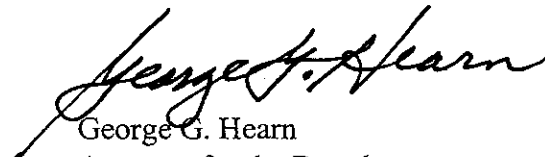
4. Veterinary Medical Records -- Your recordkeeping was poor, and you billed for some things that were not in the record. These errors constituted violations of the practice competency standard as well as Board Rule .0207(b)(12).

The issues on which no probable cause is found are dismissed pursuant to Board Rule .0601(i).

This concludes the investigation of Committee 1 with respect that portion of this complaint against you. The decision of the Committee has been reported to and accepted by the Veterinary Medical Board.

Please review Board Rule .0601(h) concerning this Letter of Reprimand. If you have any questions about the decision or the Letter, please contact me or Thomas M. Mickey.

Very truly yours,

  
George G. Hearn  
Attorney for the Board

GGH:ccs  
Enclosures

cc: Nancy G. Deas  
Edna G. Deas ✓  
Kevin A. Monce, DVM  
Board Members  
Thomas M. Mickey, Executive Director