

STATE OF MICHIGAN
DEPARTMENT OF COMMUNITY HEALTH
BUREAU OF HEALTH PROFESSIONS
BOARD OF VETERINARY MEDICINE
DISCIPLINARY SUBCOMMITTEE

In the matter of

ABOLARIN AGBONA, D.V.M.
License Number: 69-01-008492

File Number: 69-07-104062

ADMINISTRATIVE COMPLAINT

NOW COMES the Michigan Department of Community Health, hereafter Complainant, by Melanie B. Brim, Director, Bureau of Health Professions, and files this Complaint against Abolarin Agbona, D.V.M., hereafter Respondent, alleging upon information and belief as follows:

1. The Michigan Board of Veterinary Medicine, hereafter Board, is an administrative agency established by the Public Health Code, 1978 PA 368, as amended; MCL 333.1101 et seq. Pursuant to section 16226 of the Public Health Code, supra, the Board's Disciplinary Subcommittee is empowered to discipline licensees for violations of the Public Health Code.

2. 1979 AACS, R 338.4913, promulgated by the Board, provides, in part, the following:

- 1) A departure from the provisions of this rule is deemed to constitute a departure from, or failure to conform to, minimal standards of acceptable and prevailing veterinary medical practice.
- 2) A veterinary facility shall be maintained in a sanitary manner.

- 3) The determination of whether a veterinary facility is maintained in a sanitary manner shall include, without limitation, consideration of whether the following requirements have been met:
 - (a) The facility shall be maintained in a clean and orderly condition.
 - (b) Floors, walls, windows, exam tables, and all equipment and storage cabinets shall be kept clean.

3. Section 16221(a) of the Public Health Code, supra, authorizes the Board's Disciplinary Subcommittee to take disciplinary action against a licensee for any conduct, that evidences a violation of general duty, consisting of negligence or failure to exercise due care, including negligent delegation to or supervision of employees or other individuals, whether or not injury results, in violation.

4. Section 16221 (b)(i) of the Public Health Code, supra, authorizes the Board's Disciplinary Subcommittee to take disciplinary action against a licensee for any conduct, that evidences a departure from, or failure to conform to, minimal standards of acceptable and prevailing practice for the health profession, whether or not actual injury to an individual occurs, in violation.

5. Respondent is currently licensed to practice veterinary medicine in the state of Michigan and holds a current controlled substance license.

6. Respondent is the owner of and provides veterinarian services at Comprehensive Animal Clinic in Lansing, Michigan, hereafter clinic.

7. On May 25, 2006, the Board's Disciplinary Subcommittee disciplined Respondent pursuant to a Consent Order and Stipulation. Specifically, Respondent was placed on probation for a period of one year with terms. The terms of the probation included: Completion of a continuing education course in documentation; minimum of four unannounced random visits by a Board member or designee to review Respondent's professional practice, records and the sanitary conditions of Respondent's veterinary facility; and, Compliance with the Public Health Code. The disciplinary action was based on Respondent's substandard care of a cat, unsanitary conditions, poor documentation, and failure to store controlled substances in a securely locked cabinet and to maintain an accurate inventory of controlled substances. A copy of the disciplinary document, marked Exhibit A, is attached and incorporated.

8. On March 29, 2007, the Board's Disciplinary Subcommittee disciplined Respondent pursuant to a Consent Order and Stipulation. Specifically, Respondent license was suspended for 14 days with automatic reinstatement, and placed on probation for one year with terms. Terms of the probation include completion of a continuing education course in veterinary emergency medicine, and a minimum of two unannounced random visits. The disciplinary action was based on Respondent's substandard care of a canine, poor documentation, poor x-ray technique, and failure to record the results of a gastric lavage.

CONTINUED ON NEXT PAGE

9. On December 15, 2006, a 10-year-old canine named Mocha was brought to Respondent's clinic after being in labor for at least 48 hours. The canine had delivered one live puppy and one deceased puppy prior to arriving at the clinic. Respondent failed to perform any blood testing or take any x-rays. Respondent gave Mocha's owner two options for delivery; a) to inducing labor; b) or perform a caesarean section. The owner opted for a caesarean section. Mocha subsequently died during the surgery. Respondent subsequently determined that the pressure relief valve on the anesthesia machine had been closed during the procedure and he informed Mocha's owner that he was responsible for the dog's death, because he should have checked the anesthesia machine prior to the surgery, but had failed to do so.

10. On June 7, 2007, a veterinarian appointed by the Board chair conducted a random visit to Respondent's facility, pursuant to the terms of the Consent Order and Stipulation dated May 25, 2006. The following was noted:

- A) The facility was not as clean as it had been in the previous two visits.
- B) Radiographs were not appropriate for the condition the animals presented with as only one view was taken rather than the minimum of two; Respondent was not able to read radiographs and to establish what they were taken for; his technique and processing were poor; and some radiographs were not labeled with left and right markers.
- C) Respondent exhibited poor recordkeeping, specifically incomplete histories, minimal physical exam findings, and illegible hand writing.
- D) Bottles of scheduled drugs were not labeled.
- E) Respondent's anesthesia machine did not have a bair circuit for animals under 15 pounds.

11. Contrary to the terms of the Consent Order and Stipulation dated May 25, 2006 and March 29, 2007, Respondent violated the Public Health Code, as set forth in paragraphs 9 and 10.

COUNT I

Respondent's conduct, as set forth above, evidences a violation of general duty, consisting of negligence or failure to exercise due care, including negligent delegation to or supervision of employees or other individuals, whether or not injury results, in violation of section 16221(a) of the Public Health Code, supra.

COUNT II

Respondent's conduct, as set forth above, evidences a departure from, or failure to conform to, minimal standards of acceptable and prevailing practice for the health profession, whether or not actual injury to an individual occurs, in violation of section 16221(b)(i) of the Public Health Code, supra.

COUNT III

Respondent's conduct, as set forth above, is contrary to 1981 AACRS, R 338.4913(3), in violation of section 16221(h) of the Public Health Code, supra.

COUNT IV

Respondent's conduct, as set forth above, evidences a violation of a final order issued by the Board's Disciplinary Subcommittee, contrary to 1996 AACRS, R 338.1632, in violation of section 16221(h) of the Public Health Code, supra.

WHEREFORE, Complainant requests that the within Complaint be served upon Respondent and that Respondent be offered an opportunity to show compliance with all lawful requirements for retention of the license. If compliance is not shown, Complainant further requests that formal proceedings be commenced pursuant to the Public Health Code, rules promulgated thereunder, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 et seq.

RESPONDENT IS HEREBY NOTIFIED that, pursuant to section 16231(7) of the Public Health Code, supra, Respondent has 30 days from the date of receipt of this Complaint to submit a written response to the allegations contained herein. The written response shall be submitted to Complainant, Melanie B. Brim, Director, Bureau of Health Professions, Department of Community Health, P.O. Box 30670, Lansing, MI 48909.

CONTINUED ON NEXT PAGE

RESPONDENT IS FURTHER NOTIFIED that, pursuant to section 16231(8) of the Public Health Code, supra, Respondent's failure to submit a written response within 30 days, as noted above, shall be treated as an admission of the allegations contained herein and shall result in transmittal of this Complaint directly to the Board's Disciplinary Subcommittee for imposition of an appropriate sanction.

DATED: *October 23, 2007*

Melanie B. Brim
Melanie B. Brim, Director
Bureau of Health Professions

Attachments

This is the last and final page of an Administrative Complaint in the matter of Abolarin Agbona, D.V.M., File Number 69-07-104062, before the Disciplinary Subcommittee of the Michigan Board of Veterinary Medicine, consisting of seven pages, this page included.

DWC