

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF BUSINESS AND )  
PROFESSIONAL REGULATION, )  
 )  
Petitioner, )  
 )  
vs. ) CASE NO. 95-0698  
 )  
OLIVER R. JONES, D.V.M., )  
 )  
Respondent. )  
\_\_\_\_\_ )

RECOMMENDED ORDER

Pursuant to notice, a formal hearing was held in this case before Errol H. Powell, a duly designated Hearing Officer of the Division of Administrative Hearings, on July 25, 1995, in Ft. Lauderdale, Florida.

APPEARANCES

For Petitioner: Susan E. Lindgard, Esquire  
Department of Business and  
Professional Regulation  
1940 North Monroe Street, Suite 60  
Northwood Center  
Tallahassee, Florida 32399-0792

For Respondent: David T. Bobbitt, Esquire  
2500 Northwest 79th Avenue  
Miami, Florida 33122-1031

STATEMENT OF THE ISSUES

The issue for determination is whether Respondent committed the offenses set forth in the administrative complaint, and if so, what action should be taken.

PRELIMINARY STATEMENT

On January 30, 1995, the Department of Business and Professional Regulation (Petitioner) filed a three-count administrative complaint against Oliver R. Jones, D.V.M. (Respondent). Petitioner charged Respondent with: Count I -- being guilty of fraud, deceit, negligence, incompetency, or misconduct, in or related to the practice of veterinary medicine in violation of Subsection 474.214(1)(o), Florida Statutes (1993); Count II -- being guilty of incompetence or negligence by failing to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent veterinarian as being acceptable under similarly conditions and circumstances in violation of Subsection 474.214(1)(r), Florida Statutes (1993); and Count III -- failing to maintain medical records, as a provider of veterinary medical services, in accordance with established Rule 61G18-18.002, Florida

Administrative Code, (an individual medical record must be maintained on every patient examined or administered to by the veterinarian), in violation of Section 474.2165, Florida Statutes (1993). On February 13, 1995, Respondent filed an Election of Rights form with Petitioner disputing the allegations of fact in the administrative complaint and requesting a formal hearing. On February 17, 1995, this matter was referred to the Division of Administrative Hearings.

At hearing, Petitioner presented the testimony of five witnesses and entered six exhibits into evidence. Respondent testified in his own behalf and presented the testimony of one witness and entered nine exhibits into evidence.

A transcript of the formal hearing was ordered. The parties submitted proposed findings of fact which are addressed in the appendix to this recommended order.

#### FINDINGS OF FACT

1. The Department of Business and Professional Regulation, Board of Veterinary Medicine (Petitioner) is the state agency charged with regulating the practice of veterinary medicine in the State of Florida, pursuant to Chapter 474, Florida Statutes.

2. Oliver R. Jones (Respondent) is, and has been at all times material hereto, a licensed doctor of veterinary medicine in and by the State of Florida, having been issued license number VM 0001439.

3. On or about December 29, 1993, Cleo, a female cat, was presented to Respondent by the cat owner's mother for spaying. The owner's mother signed the surgical authorization form, and the surgery was scheduled for later that morning. At that time no history was taken on Cleo because the owner's mother had no knowledge of Cleo's history. Respondent provided the owner's mother with forms which requested information regarding Cleo's history and which were to be given to Cleo's owner. Not receiving any communication from the owner, Respondent telephoned the owner. He discussed additional procedures which were recommended for Cleo and inquired about Cleo's history. The owner refused any additional procedures and provided Respondent with no history on Cleo.

4. Cleo was a referral through the Pet Aid League (PAL). PAL is an organization which offers spaying and neutering of animals at a reduced cost. Respondent was one of many veterinarians agreeing to accept referrals from PAL at PAL's reduced cost.

5. Even though Respondent had no history on Cleo, based upon his examination of Cleo and his years of experience and training, Respondent determined that Cleo's health was appropriate for surgery. Respondent performed the spaying with no noted complications. Respondent used the same spaying procedure that he had used on all of his other patients without incident.

6. At or around 5:30 p.m. or 6:00 p.m. on the same day as surgery, Cleo's owner picked her up. Respondent provided Cleo's owner with a postsurgical information sheet and advised the owner to keep Cleo confined to the carrying cage in which Cleo was located and not allow Cleo to roam about. The cost of the surgical procedure under PAL's guidelines was \$32 which the owner paid.

7. After surgery and up to and upon discharge, no bleeding was noted by Respondent from the surgical area.

8. Cleo's owner lived approximately five minutes from Respondent's office. Upon arriving home, the owner laid a towel in front of Cleo's cage and allowed Cleo to leave the cage and lay on a towel. Cleo acted weak and lethargic.

9. After approximately 15 minutes, Cleo continued to act weak and lethargic. The owner observed blood on the towel and on and around the area of the sutures where the surgical incision was made.

10. The owner attempted to contact Respondent by telephone but received no answer. The owner assumed Respondent's office was closed. 1/

11. At or around 7:00 p.m. on the same day of surgery, the owner took Cleo to Pet Emergency Center (Pet Emergency) on North University Drive in Tamarac, Florida. Cleo was treated by Dr. Anwar Basta. Pet Emergency contacted Respondent after obtaining information from the owner that Respondent had spayed Cleo. Respondent requested that the emergency doctor do whatever was needed to save Cleo's life. Expressing concern regarding the cost of the emergency medical services, Cleo's owner was informed by Pet Emergency that Respondent was a shareholder in Pet Emergency and, therefore, she would be charged only one-half the cost for the medical services rendered, with no emergency fee.

12. Dr. Basta observed that Cleo's mucous membranes were pale and depressed, and that she was bleeding from the suture area and internally. Cleo's packed cell volume (PCV) was 9. He administered an intravenous (IV) catheter, lactated ringers with 3cc dexamethasone and anesthetized Cleo.

13. Dr. Basta reopened the surgical area and observed that Cleo was bleeding from the body of the uterus or "uterine stump." There was an indication of ligation but the ligature was not present. The absence of a ligature is not unusual since it is absorbable. Dr. Basta stopped the bleeding and re-sutured the incision. Cleo was given 60cc of blood by transfusion.

14. After the treatment by Dr. Basta, Cleo was doing better and remained at Pet Emergency Center overnight. Respondent contacted Pet Emergency twice, checking on Cleo's condition.

15. At discharge, on December 30, 1993, Dr. Basta prescribed antibiotics and advised Cleo's owner to visit the family veterinarian for further care. Cleo's owner paid \$180.00 for the medical services rendered by Pet Emergency Center and Dr. Basta.

16. After discharge, on December 30, 1993, instead of taking Cleo to Respondent, the owner took Cleo to Pine Island Animal Hospital (Pine Island). Cleo was treated by Dr. David Smith. At admission, Pine Island requested previous history of Cleo on a form. The history section was left blank by Cleo's owner.

17. Cleo had previously received medical services at Pine Island. In October 1993, when the owner first acquired Cleo, Pine Island treated Cleo twice for hook and tape worms.

18. Dr. Smith's role in treating Cleo after the emergency treatment by Pet Emergency Center was one of providing supportive care, such as IV, fluids, food, antibiotics, and close observation. Cleo remained at Pine Island for two days (December 30 - 31, 1993). Cleo was doing fine. Cleo's owner paid \$214.18 for the medical services rendered by Pine Island and Dr. Smith.

19. Respondent was not aware that Cleo had been taken to Pine Island after discharge from Pet Emergency Center.

20. Respondent attempted to reimburse Cleo's owner \$100.00 of the monies expended by Cleo's owner on the medical services provided due to the complications from the spaying. Cleo's owner returned Respondent's check, refusing to accept any money unless it was the entire sum expended.

21. On May 10, 1994, Respondent provided Petitioner's investigator with his complete medical records on Cleo. Also, Respondent executed a verification of completeness form, which was notarized on May 10, 1994.

22. Respondent kept his PAL patients' medical records 2/ separate from and on different forms than his regular patient records. Respondent's medical records on Cleo were generated at the time of surgery and completed during the day as each service was being completed for Cleo. Respondent's medical records failed to provide the results of Cleo's physical examination, Cleo's health, and what occurred during surgery. Respondent's medical records on Cleo are inadequate.

23. Further, Respondent's medical records did not contain a history on Cleo. However, it is not unusual for veterinarians not to have the history of a patient.

24. Performing a postoperative examination is essential. Respondent failed to examine Cleo at time of discharge. If Respondent had examined Cleo at the time of discharge from his care, he should have observed the symptoms of blood loss by Cleo and not have discharged Cleo. A normal PCV for a cat is 38 - 40. A PCV below 12 is an indication that the patient is in distress, that the patient has been bleeding internally for some time, that the blood has had a chance to dilute and that an emergency transfusion is needed. A PVC of 9 is a critical point and indicates a significant blood loss which has occurred over a period of hours. Symptoms of blood loss include paleness of the mucous membranes, the gums or the eyeballs, and weakness. Even though Respondent claims to have performed such an examination, the medical records provided to Petitioner's investigator failed to show a postoperative examination at discharge or the results thereof. 3/

25. Spaying is the common term for ovariohysterectomy which is the surgical removal of the ovaries and body of the uterus. The procedure prevents an animal from going into heat and reproducing.

26. Variations exist in the procedure of spaying. However, the commonality in all variations is removing the ovaries and the uterus and ensuring that the stumps are securely ligated to prevent bleeding.

27. Ligation is the process of tying the stump using an absorbable suture (the ligature). The suture is tightly tied in a knot so that vessels are constricted to prevent bleeding; usually two knots are used.

28. Respondent uses the same procedure for ligation in all of his spaying, which was no different when he spayed Cleo. In his procedure for spaying, Respondent uses a triple clamp technique. For the ovary and uterine horn, he places two clamps below the ovary and one above the ovary at the proper ligament. The lower clamp crushes the tissue and leaves an indentation in the tissue when it (the lower clamp) is removed. In ligation, the suture is placed

around the tissue in the indentation left by the lower clamp and the suture is tied using a surgeon knot, i.e., a triple tied simple knot, and then a square knot over the surgeon knot. The broad ligament which has the vessels in it is cutoff. The ovarian stump is checked for bleeding. This same procedure is used for the other ovary and uterine horn. For the cervix, one clamp is placed anterior to the cervix, a second clamp is placed above that clamp, and another clamp is placed above the previous clamp. The bottom clamp crushes the tissue and leaves an indentation in the tissue when it (the bottom clamp) is removed. The same tie procedure (ligation) previously described for the ovarian stump is used for the uterine stump. A check for bleeding at the uterine stump is also made.

29. The standard and accepted procedure in veterinary medicine under similar conditions and circumstances for ligation is different from that used by Respondent. Instead of looping or placing the suture around the tissue in the indentation left by the clamp and then tying the suture, the standard and accepted procedure is to loop or place the suture around the tissue in the indentation left by the clamp and then use a stick tie, or transfixation suture which is passing the suture through the tissue and then tying the suture. The standard and accepted procedure would prevent the suture from slipping off the ovarian stump or the uterine stump. Slippage would cause the ovarian stump or uterine stump to bleed.

30. Respondent has been licensed in the State of Florida since December 31, 1973. He has performed over 3,000 spayings. This is the first time that a complaint has been filed against Respondent during his over twenty years of practice.

#### CONCLUSIONS OF LAW

31. The Division of Administrative Hearings has jurisdiction over the subject matter of this proceeding and the parties thereto, pursuant to Subsection 120.57(1), Florida Statutes.

32. License revocation proceedings are penal in nature. The burden of proof is on the Petitioner to establish the truthfulness of the allegations of the administrative complaint by clear and convincing evidence. Ferris v. Turlington, 510 So.2d 292 (Fla. 1987).

33. Subsection 474.214(1) Florida Statutes (1993), provides certain acts for which disciplinary action may be taken and provides in pertinent part:

(f) Violating any provision of this chapter  
. . . a rule of the board or department. . .

\* \* \*

(o) [N]egligence in or related to the practice  
of veterinary medicine.

\* \* \*

(r) Being guilty of . . . negligence by failing  
to practice medicine with that level of care,  
skill, and treatment which is recognized by a  
reasonably prudent veterinarian as being  
acceptable under similar conditions and circumstances.

34. Petitioner has demonstrated by clear and convincing evidence that Respondent violated Subsection 474.214(1)(o). This statutory provision does not require proof of a standard of professional conduct and a deviation therefrom,

unlike Subsection 474.214(1)(r). Negligence, as it pertains to Subsection 474.214(1)(o), is the failure to do what a reasonable and prudent person would ordinarily have done under the circumstances, or the doing of what a reasonable and prudent person would not have done under the circumstances. *DeWald v. Quarnstrom*, 60 So.2d 919 (Fla. 1952). Respondent failed to perform a postoperative physical examination of Cleo before he discharged Cleo to the owner as a reasonable and prudent veterinarian would have done. Moreover, a reasonable and prudent veterinarian would not have discharged a cat in Cleo's condition to go home after surgery.

35. Petitioner's argument that Respondent should have used a stick tie in the ligation is not persuasive as a violation of Subsection 474.214(1)(o). The use of a stick tie is a standard of care issue.

36. Petitioner has demonstrated by clear and convincing evidence that Respondent violated Subsection 474.214(1)(r). The stick tie, or transfixation suture, is the standard and accepted procedure in veterinary medicine under similar conditions and circumstances for ligation. Respondent failed to use the stick tie, or transfixation suture, for ligation in Cleo's spaying.

37. Section 474.2165, Florida Statutes (1993), provides that a veterinarian shall maintain records, as established by rule. Rule 61G18-18.002, Florida Administrative Code, provides, in pertinent part, that an individual medical record must be maintained on every patient examined or administered to by the veterinarian; that the medical record shall contain all clinical information pertaining to the patient with sufficient information to justify the diagnosis or determination of health status and warrant any treatment recommended or administered; that the medical records shall be contemporaneously written and include the date of each service performed; and that the medical records shall contain the name of the owner or agent, patient identification, record of any vaccinations administered, complaint or reason for provision of services, history, physical examination, any present illness or injury noted, and provisional diagnosis or health status determination.

38. Petitioner has demonstrated by clear and convincing evidence that Respondent violated Section 474.2165 and Rule 61G18-18.002. 4/ Respondent's medical records on Cleo failed to show a postoperative examination at discharge and the results thereof. 5/ Regarding the failure of the medical records to contain a history, Respondent was unable to obtain a history and, under the circumstances, a violation was not committed.

39. As to disciplinary action for the violations committed, Rule 61G18-30.001, Florida Administration Code, provides the range of the penalty for each violation: (1) for a violation of Subsection 474.214(1)(o), from one (1) year probation and a \$1,000 administrative fine to revocation; (2) for a violation of Subsection 474.214(1)(r), one (1) year probation and a \$1,000 administrative fine; and (3) for a violation of a statute or rule regulating the practice of veterinary medicine, one (1) year probation and a \$1,000 administrative fine.

40. Mitigating circumstances may also be considered in disciplining a licensee. Rule 61G18-30.001, Florida Administrative Code. Respondent has been practicing veterinary medicine for over twenty years and has performed over 3,000 spayings. He has never had an administrative complaint filed against him. Additionally, after being notified of Cleo's condition by Pet Emergency Center, Respondent informed Pet Emergency to do whatever was needed to save Cleo's life and maintained contact with Pet Emergency checking on the status of Cleo's condition.

41. Petitioner suggests disciplinary action consisting of placing Respondent on probation for two years and imposing a \$3,000 administrative fine.

#### RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Board of Veterinary Medicine enter a final order:

1. Placing Oliver R. Jones on probation for a period of one (1) year under such terms and conditions as deemed appropriate by the Board; and

2. Imposing an administrative fine of \$3,000.

DONE AND ENTERED this 1st day of November, 1995, in Tallahassee, Leon County, Florida.

---

ERROL H. POWELL  
Hearing Officer  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-1550  
(904) 488-9675

Filed with the Clerk of the  
Division of Administrative Hearings  
this 1st day of November, 1995.

#### ENDNOTES

1/ No evidence was presented to show how many times the owner allowed the telephone to ring before she hung-up or to show how many times Respondent's telephone would ring before his answering machine would be activated. In the normal course of things, Respondent's recorded message on his answering machine would inform individuals of his beeper number (until 10:00 p.m.) and where to take pets for emergencies, i.e. Pet Emergency Center with a telephone number for the Center.

2/ When Florida law made it mandatory to give rabies vaccinations, PAL refused to make the vaccinations part of its services. As a result of PAL's refusal, Respondent discontinued his service to PAL referrals which was subsequent to Cleo's spaying.

3/ At hearing, Respondent entered an exhibit of Cleo's medical record which contained a piece of paper stapled to it. The piece of paper showed a postoperative examination at discharge and the results thereof. The parties stipulated that the piece of paper was added subsequent to Petitioner's investigator obtaining a copy of Respondent's medical records on Cleo. Petitioner's expert opined that the information on the piece of paper, as part of Cleo's medical record, would bring Respondent's medical records into compliance.

4/ Petitioner failed to cite a violation of Subsection 474.214(1)(f), F. S. (1993), in its complaint. However, this failure is not fatal. Petitioner did cite with specificity Respondent's violation of a provision of Chapter 474, F. S. (1993), i.e., Section 474.2165, F. S., and of a rule of the Board of Veterinary Medicine, i.e., Rule 61G18-18.002, F. A. C..

5/ See Endnote 3.

#### APPENDIX

The following rulings are made on the parties' proposed findings of fact:

#### Petitioner's Proposed Findings of Fact.

1. Partially accepted in finding of fact 2.
2. Partially accepted in finding of fact 3.
3. Partially accepted in finding of fact 4.
4. Partially accepted in finding of fact 3.
5. Partially accepted in finding of fact 6.
6. Partially accepted in finding of fact 8.
7. Partially accepted in finding of fact 8.
8. Partially accepted in finding of fact 8.
9. Partially accepted in finding of fact 8.
10. Partially accepted in finding of fact 9.
11. Partially accepted in finding of fact 11.
12. Partially accepted in findings of fact 9 and 11.
13. Partially accepted in findings of fact 11 and 14.
14. Partially accepted in findings of fact 14 and 16.
15. Partially accepted in findings of fact 11 and 12.
16. Partially accepted in finding of fact 12.
17. Partially accepted in finding of fact 12.
18. Partially accepted in findings of fact 12 and 13.
19. Partially accepted in finding of fact 13.
20. Partially accepted in finding of fact 15.
21. Partially accepted in finding of fact 12.
22. Partially accepted in finding of fact 15.
23. Partially accepted in finding of fact 16.
24. Rejected as being unnecessary.
25. Partially accepted in finding of fact 18.
26. Partially accepted in finding of fact 18.
27. Partially accepted in finding of fact 18.
28. Partially accepted in finding of fact 20.
29. Partially accepted in finding of fact 20.
30. Partially accepted in finding of fact 21.
31. Partially accepted in finding of fact 21.
32. Rejected as being unnecessary.
33. Partially accepted in finding of fact 25.
34. Partially accepted in finding of fact 25.
35. Partially accepted in finding of fact 26.
36. Partially accepted in findings of fact 27 and 29.
37. Partially accepted in findings of fact 26 and 29.
38. Partially accepted in finding of fact 22.
39. Partially accepted in finding of fact 22.
40. Partially accepted in finding of fact 22.
41. Partially accepted in finding of fact 24.
42. Partially accepted in finding of fact 24.



43. Partially accepted in finding of fact 24.
44. Partially accepted in finding of fact 24.
45. Partially accepted in finding of fact 24.
46. Partially accepted in finding of fact 24.
47. Partially accepted in finding of fact 12.
48. Partially accepted in finding of fact 29.
49. Partially accepted in findings of fact 29 and 24.

Respondent's Proposed Findings of Fact.

1. Partially accepted in findings of fact 2 and 30.
2. Rejected as being unnecessary, argument, or conclusion of law.
3. Rejected as being unnecessary, argument, or conclusion of law.
4. Partially accepted in findings of fact 3, and 4.
5. Partially accepted in finding of fact 3.
6. Partially accepted in finding of fact 5.
7. Partially accepted in finding of fact 5.
8. Partially accepted in finding of fact 6.
9. Partially accepted in findings of fact 8, 9, and 11.
10. Rejected as being not supported by the more credible evidence.
11. Partially accepted in findings of fact 11 and 13.
12. Partially accepted in finding of fact 18.
13. Partially accepted in findings of fact 3, 22, and 24.
14. Rejected as being contrary to the evidence presented, argument, or conclusion of law.
15. Rejected as being argument, or conclusion of law.
16. Partially accepted in finding of fact 28.
17. Partially accepted in findings of fact 5 and 29.
18. Partially accepted in finding of fact 6.
19. Partially accepted in findings of fact 13 and 29.
20. Partially accepted in finding of fact 17.

NOTE: Where a proposed finding has been partially accepted, the remainder has been rejected as being irrelevant, unnecessary, cumulative, not supported by the evidence presented, not supported by the more credible evidence, argument, or conclusion of law.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions to this recommended order. All agencies allow each party at least ten days in which to submit written exceptions. Some agencies allow a larger period within which to submit written exceptions. You should contact the agency that will issue the final order in this case concerning agency rules on the deadline for filing exceptions to this recommended order. Any exceptions to this recommended order should be filed with the agency that will issue the final order in this case.

=====  
AGENCY FINAL ORDER  
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STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
BOARD OF VETERINARY MEDICINE

DEPARTMENT OF BUSINESS AND  
PROFESSIONAL REGULATION

Petitioner,  
vs.

CASE NO.: 94-01084  
DOAH CASE NO.: 95-0698

OLIVER R. JONES, D.V.M.,  
LICENSE NO.: VM 0001439

Respondent.  
\_\_\_\_\_ /

FINAL ORDER

THIS MATTER came before the Board of Veterinary Medicine (hereinafter referred to as the Board) pursuant to Section 120.57(1)(b)(9), Florida Statutes, on December 6, 1995, in Palm Beach, Florida, for consideration of the Recommended Order (a copy of which is attached hereto and incorporated herein by reference).

The Petitioner was represented by Susan Lindgard, Esquire. The Respondent was present and was represented by counsel at the Board meeting.

Upon consideration of the Hearing Officer's Recommended Order, and the arguments of the parties and after a review of the complete record in this matter, including exceptions filed, the Board makes the following:

#### FINDINGS OF FACT

The Hearing Officer's Findings of Fact are hereby approved and adopted in toto. The Respondent's exceptions are rejected as they attempt to reweigh the credibility of the witnesses and are inappropriate as exceptions.

2. There is competent substantial evidence to support the Hearing Officer's Findings of Fact.

#### CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to the provisions of Section 120.57(1), and Chapter 474, Florida Statutes.

2. The Hearing Officer's Conclusions of Law are hereby modified. The Hearing Officer's Conclusion of Law #34 is rejected as an exit examination is not a standard procedure in the practice of veterinary medicine (Transcript p. 92,142). The Hearing Officer's Conclusion of Law #36 is rejected as the method used by the Respondent for a small cat is an appropriate procedure (Transcript p. 139). The Board finds that the evidence to support the Conclusions of Law #34 and #36 was not clear and convincing.

3. Respondent is guilty of violating Section 474.213(1)(f), Florida Statutes.

4. The penalty recommended by the Hearing Officer is hereby rejected.

5. There is competent, substantial evidence to support the Board's findings and conclusions.

THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

The license of Oliver R. Jones, D.V.M. is hereby REPRIMANDED.

Pursuant to Section 120.59, Florida Statutes, the Parties are hereby notified that they may appeal this Final Order by filing one copy of a Notice of Appeal with the Clerk of the Department of Business and Professional Regulation, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0792, and by filing the filing fee and one copy of the Notice of Appeal with the District Court of Appeal within thirty (30) days of the effective date of this Order.

This Order shall become effective upon filing with the clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 20th day of January, 1996.

\_\_\_\_\_  
DR. ROBERT E. O'NEIL,  
CHAIRMAN  
Board of Veterinary Medicine

CERTIFICATE OF SERVICE

HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to DAVID T. BOBBITT, ESQUIRE, AIB Claims Management, Inc., 2500 NW 79th Avenue, Miami, Florida 33122-1031, and by hand delivery/United States Mail to the Board Clerk, Department of Business and Professional Regulation and its Counsel, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0792, on or before 5:00 p.m., 24th this day of January, 1996.

=====  
AGENCY CORRECTED FINAL ORDER  
=====

STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
BOARD OF VETERINARY MEDICINE

DEPARTMENT OF BUSINESS AND  
PROFESSIONAL REGULATION

Petitioner,  
vs.

CASE NO.: 94-01084  
DOAH CASE NO.: 95-0698

OLIVER R. JONES, D.V.M.,  
LICENSE NO.: VM 0001439

Respondent.

\_\_\_\_\_/

CORRECTED FINAL ORDER

THIS MATTER came before the Board of Veterinary Medicine (hereinafter referred to as the Board) pursuant to Section 120.57(1)(b)(9), Florida Statutes, on December 6, 1995, in Palm Beach, Florida, for consideration of the Recommended Order (a copy of which is attached hereto and incorporated herein by reference). The Petitioner was represented by Susan Lindgard, Esquire. The Respondent was present and was represented by counsel at the Board meeting.

Upon consideration of the Hearing Officer's Recommended Order, and the arguments of the parties and after a review of the complete record in this matter, including exceptions filed, the Board makes the following:

#### FINDINGS OF FACT

1. The Hearing Officer's Findings of Fact are hereby approved and adopted in toto. The Respondent's exceptions are rejected as they attempt to reweigh the credibility of the witnesses and are inappropriate as exceptions.

2. There is competent, substantial evidence to support the Hearing Officer's Findings of Fact.

#### CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to the provisions of Section 120.57(1), and Chapter 474, Florida Statutes.

2. The Hearing Officer's Conclusions of Law are hereby modified. The Hearing Officer's Conclusion of Law #34 is rejected as an exit examination is not a standard procedure in the practice of veterinary medicine (Transcript p. 92,142). The Hearing Officer's Conclusion of Law #36 is rejected as the method used by the Respondent for a small cat is an appropriate procedure (Transcript p. 139). The Board finds that the evidence to support the Conclusions of Law #34 and #36 was not clear and convincing.

3. Respondent is guilty of violating Section 474.2165, Florida Statutes.

4. The penalty recommended by the Hearing Officer is hereby rejected.

5. There is competent, substantial evidence to support the Board's findings and conclusions.

THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

The license of Oliver R. Jones, D.V.M. is hereby REPRIMANDED.

Pursuant to Section 120.59, Florida Statutes, the Parties are hereby notified that they may appeal this Final Order by filing one copy of a Notice of Appeal with the Clerk of the Department of Business and Professional Regulation, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0792, and by filing the filing fee and one copy of the Notice of Appeal with the District Court of Appeal within thirty (30) days of the effective date of this Order.

This Order shall become effective upon filing with the clerk of the Department of Business and Professional Regulation.

Nunc pro tunc to the 20th day of January, 1996.

---

DR. ROBERT E. O'NEIL,  
CHAIRMAN  
Board of Veterinary Medicine

CERTIFICATE OF SERVICE

HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to DAVID T. BOBBITT, ESQUIRE, AIB Claims Management, Inc., 2500 NW 79th Avenue, Miami, Florida 33122-1031, and by hand delivery/United States Mail to the Board Clerk, Department of Business and Professional Regulation and its Counsel, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0792, on or before 5:00 p.m., this 27th day of February, 1996.