

**BOARD ACTION FOR VIOLATION OF PRACTICE ACT BY VERBALLY HARASSING
THE OWNER OF A PATIENT ANIMAL.**

Nelson v. State Bd. Veterinary Medicine, 863 A. 2d 129 (Commw. Ct. Pa 2004)

BASIS OF THE COMPLAINT:

Betty Voorhies, 76 years old, brought her ailing 17-year old dog, “Lady”, to Dr. Nelson to be euthanized. Ms. Voorhies had been a client of Dr. Nelson for 14 years and Lady had been his patient for 12 years. Dr. Nelson had previously recommended that Lady be euthanized due to loss of sight in one eye and breathing difficulties. Ms. Voorhies had made several appointments to euthanize Lady but had changed her mind each time after arrival at the clinic. On the day in question Dr. Nelson believed that Lady was in “miserable shape” and was suffering. Dr. Nelson failed on his first two attempts to inject the euthanasia solution in Lady’s legs and he then injected the solution in the jugular vein causing the dog to howl and collapse. Ms. Voorhies then cried and yelled at Dr. Nelson, accusing him of killing her dog, and demanding that he bring Lady back to life. Dr. Nelson firmly and directly informed Ms. Voorhies that he did not hurt Lady and left the room to allow his technician to calm Ms. Voorhies.

Ms. Voorhies filed a complaint with the Department of State, Bureau of Enforcement and Investigations. Edward Tonelli, an investigator for the Department, contacted Dr. Nelson and the two met in Dr. Nelson’s office. During that interview Dr. Nelson became angry loud and agitated, told Mr. Tonelli that the complaint was ridiculous, and denied any wrongdoing, referring to Ms. Voorhies as a “***** wacko”. While the interview was still in progress, Dr. Nelson telephoned Ms. Voorhies and attempted to persuade her to withdraw the complaint. Ms. Voorhies responded in loud tones, accusing Dr. Nelson of torturing and murdering Lady. In turn, Dr. Nelson yelled at Ms. Voorhies, stating that her soul would “rot in hell” for what she was trying to do to him.

The Department issued an Order to Show Cause to Dr. Nelson. (*Apparently, this Order results in a hearing before the Board for adjudication on the complaint.*) The Order alleged that Dr. Nelson deviated from the standards of acceptable and prevailing medical practice and/or committed professional incompetence by verbally harassing the owner of the patient animal.

LEGAL PROCEEDINGS:

After a hearing the Pennsylvania Board of Veterinary Medicine dismissed the charge of deviation from the standards of acceptable and prevailing medical practice concluding that this statutory provision governed the veterinarian’s treatment and care of an animal patient while the Department had not charged Dr. Nelson with mistreatment of an animal, but, rather, mistreatment of an animal’s owner. However, the Board did find that Dr. Nelson demonstrated “professional incompetence” by verbally harassing Mr. Voorhies . The Board ordered a public reprimand and directed Dr. Nelson to enroll in courses designed to improve his ability to communicate with the owners of animals entrusted to his care.

Dr. Nelson appealed the action of the Board.

DISCUSSION BY THE COURT:

On appeal, Dr. Nelson raises four issues of consideration: (1) The Act regulates the practice of veterinary medicine which is the relationship between a veterinarian and his animal patient. Since the record is bereft of evidence that Dr. Nelson was negligent in his practice of veterinary medicine, the Board erred in holding that he was guilty of professional incompetence. (2) The Board exceeded its statutory authority in imposing sanctions for conduct that is not regulated by the Act. (3) The Act is unconstitutionally overbroad and vague to the extent it purports to prohibit a heated exchange between an animal patient's owner and a veterinarian. (4) Dr. Nelson's hearing did not comport with due process because a Board member directed questions to Dr. Nelson at the hearing, thereby commingling the Board's prosecutorial and adjudicatory functions.