NO 10-18-00168-CV

IN THE COURT OF APPEALS FOR
THE TENTH DISTRICT OF TEXAS
AT WACO, TEXAS

HEATHER KUTYBA,
Plaintiff-Appellant
v.
ASHLEE E. WATTS, D.V.M. and TEXAS A&M UNIVERSITY,
Defendants-Appellees.

On Appeal from the 361st Judicial District Court,
Brazos County, Texas
Cause No. 17-2110-CV-361

BRIEF OF PLAINTIFF-APPELLANT HEATHER KUTYBA,

ORAL ARGUMENT REQUESTED

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STATEMENT OF THE CASE

This case arises out of veterinary malpractice at the Texas A&M University's ("TAMU") Veterinary Medical Teaching Hospital that resulted in the death of the plaintiff-appellant Heather Kutyba's horse Dazzle. (C.R. 102-126.) Ms. Kutyba sued TAMU and Dr. Ashlee Watts, her horse's treating veterinarian, for damages. She asserted separate negligence-based claims against each defendant. (C.R. 117-125.)

On February 5, 2018, the trial court granted TAMU's motion to dismiss Dr. Watts and accepted, over plaintiff-appellant's objections, that Dr. Watts was an "employee" as that term is understood under the Texas Tort Claims Act ("TTCA"), TCPRC § 101.106(e). The trial court also overruled Ms. Kutyba's objections to the only evidence TAMU submitted to support its motion to dismiss. (C.R. 198.) On April 17, 2018, the trial court granted TAMU's plea to the jurisdiction and accepted TAMU's argument that the TTCA does not waive sovereign immunity for the death of a horse caused by a condition or use of tangible personal property at TAMU's Veterinary Hospital. (C.R. 195.)

On June 5, 2018, the trial court entered final judgment. (Suppl. C.R. 9-10.) Ms. Kutyba appeals from three of the trial court's orders: (1) granting TAMU's motion to dismiss Dr. Watts; (2) granting TAMU's plea to the jurisdiction; and (3) overruling plaintiff's objections to TAMU's exhibits. (Suppl. C.R. 11-12.)

STATEMENT REGARDING ORAL ARGUMENT

This case warrants oral argument because it raises an issue of first impression that implicates important public policy concerns: whether the Texas Tort Claims Act never waives sovereign immunity when a veterinarian, employed by the State of Texas, causes the death of an animal in her care. Oral argument will enable this Court to fully explore the legal and policy arguments regarding this important question of statutory construction.

The trial court highlighted the importance of these issues when it "very vigorously" encouraged Ms. Kutyba to take the issue up on appeal:

> I encourage you-all to take this up because I think it's a very novel question because especially in our community where there is a facility that treats every kind of animal imaginable, the State would argue that if you want to be the worst veterinarian and never have any reason to worry about your liability, come work for us. That's what this invites…. I invite you, ma'am, very vigorously to take this up.

(III R.R. at 5:17-25.)

ISSUES PRESENTED

This appeal presents three issues for appeal:

(1) Whether the trial court erred in granting TAMU's plea to the jurisdiction for claims arising out of the grave injury and death of a horse when the Texas Tort Claims Act waives sovereign immunity for personal injury and death caused by the condition or use of tangible personal property. (Yes.)

(2) Whether the trial court erred in granting TAMU's motion to dismiss Dr. Watts when the only evidence TAMU presented in support of the conclusion that Dr. Watts is an "employee" were two conclusory affidavits. (Yes.)

(3) Whether the trial court erred in overruling Ms. Kutyba's objections to two affidavits submitted by TAMU that Ms. Kutyba alleged were conclusory. (Yes.)

STATEMENT OF FACTS

This case arises out of veterinary malpractice at TAMU's Veterinary Medical Teaching Hospital (the "Veterinary Hospital") that resulted in the death of Ms. Kutyba's horse, named Dazzle. (C.R. 102 at ¶ 2.) In August 2015, Ms. Kutyba brought Dazzle to the Veterinary Hospital for treatment of a minor injury. (C.R. 104-105 at ¶¶ 12-13.) Dr. Watts oversaw Dazzle's care. (C.R. 105 at ¶ 14.) Under her direction, several conditions or uses of tangible personal property injured Dazzle and contributed to her eventual death. (*See* C.R. 105-113 at ¶¶ 14-39.) Ms. Kutyba alleged that the following property was used in a manner that injured, and eventually killed, Dazzle: farrier equipment, glue-on shoes, radiological equipment and images, harnesses and other safety devices, stalls, medication, and video cameras for monitoring. (C.R. 107-125 at ¶¶ 21, 28, 30, 32, 39, 45, 47-49, 56, 57(t), (u), (x), 66-68.) As a result, Ms. Kutyba incurred significant expenses, and Dazzle had to be humanely destroyed. (C.R. 102 at ¶ 2.)

On August 11, 2017, Ms. Kutyba sued TAMU and Dr. Watts and asserted a range of negligence-based claims.[1] (*See* C.R. 4.)

On November 1, 2017, before the trial court entered a schedule or any discovery had been served, TAMU filed a motion to dismiss and urged the Court to

[1] Ms. Kutyba initially also sued the Veterinary Hospital, but later amended her petition to focus only on TAMU and Dr. Watts. (*Compare* C.R. 4 to C.R. 102.)

dismiss Dr. Watts because, TAMU asserted, Dr. Watts is an "employee" as that term is understood under TCPRC § 101.106(e). (C.R. 65-68.) In support, TAMU provided two single-page affidavits, both of which stated, in conclusory fashion, that Dr. Watts was in TAMU's "paid service" at all relevant times. (*See* C.R. 97-98.)

On November 14, 2017, the trial court entered a scheduling order establishing July 19, 2018 as the date for the discovery cut-off and July 20, 2018 as the date by which motions for summary judgment subject to an interlocutory appeal must be heard. (C.R. 99-101.) On January 2, 2018, Ms. Kutyba amended her petition and also served the defendants with discovery and sought information and documents relevant to TAMU's motion to dismiss. (C.R. 102, 138-146.)

On January 2, 2018, Ms. Kutyba responded that TAMU did not meet its burden by submitting the two affidavits and requested the opportunity to conduct discovery before the trial court addressed the merits of TAMU's arguments; she also filed objections to the two affidavits submitted by TAMU. After a hearing, on February 5, 2018, the trial court granted the motion to dismiss. (2d Suppl. C.R. 8-9.) The trial court later overruled Ms. Kutyba's objections. (C.R. 198.)

On February 26, 2018, TAMU filed a plea to the jurisdiction. (C.R. 174.) TAMU argued the TTCA does not waive sovereign immunity here because "there was no operation or use of a motor-driven vehicle or motor-driven equipment that

waives sovereign immunity." (C.R. 174.) TAMU did not address whether the TTCA's waiver of immunity for "a condition or use of tangible personal property" (TCPRC § 101.021(2)) applies to the facts alleged by Ms. Kutyba. (C.R. 174.) In her response, filed on April 4, 2018, Ms. Kutyba argued that the court should read the TTCA as waiving immunity under these circumstances, so as not to categorically free TAMU veterinarians from all potential liability when treating animals.

At the hearing, the Court advised it would grant TAMU's plea but "very vigorously" suggested that Ms. Kutyba take this up on appeal:

> I encourage you-all to take this up because I think it's a very novel question because especially in our community where there is a facility that treats every kind of animal imaginable, the State would argue that if you want to be the worst veterinarian and never have any reason to worry about your liability, come work for us. That's what this invites…. I invite you, ma'am, very vigorously to take this up.

(III R.R. at 5:17-25.) On April 17, 2018, the Court entered an order granting TAMU's plea. (C.R. 195.)

As reflected in her notice of appeal, Ms. Kutyba appeals the following orders that were made final by the court's judgment: (1) Order granting Defendant Texas A&M University's Motion to Dismiss Defendant Watts Pursuant to Tex. Civ. Prac. & Rem. Code § 101.106(e); (2) Order granting Defendant Texas A&M University's Plea to the Jurisdiction (signed 4/17/18); and (3) Order on Plaintiff's Objections to Defendants' Exhibits (signed 5/12/18). (*See* Suppl. C.R. 11-12.)

SUMMARY OF ARGUMENT

The trial court erred in three key ways. First, the trial court read the Texas Tort Claims Act so narrowly that its interpretation of the statute eliminates all claims against veterinarians arising out of the negligent treatment of animals in their care. That waiver of immunity applies here is supported by related statutes and case law. Further, there are policy reasons, hinted at in the trial court's comment at the hearing, to justify liability against veterinarians in certain circumstances encompassed by the plain language of the statute. Among them, immunizing TAMU veterinarians from liability (in all circumstances not involving a motor vehicle) would compromise the standard of care all veterinarians must meet.

Second, the trial court accepted TAMU at its word that Dr. Watts is its "employee" as that term is understood under TCPRC § 101.106(e)—without allowing Ms. Kutyba the opportunity to pursue any discovery into this issue.

Third, this error was compounded because the trial court overruled Ms. Kutyba's objections to two conclusory affidavits submitted by TAMU in support of its motion to dismiss Dr. Watts. Each error warrants reversal.

ARGUMENT

1. The Trial Court Erred in Granting TAMU's Plea to the Jurisdiction Because the TTCA Waives Sovereign Immunity for Death Caused by a Condition or Use of Tangible Personal or Real Property, Without Further Qualification

The TTCA authorizes lawsuits against governmental units like TAMU for "personal injury and death so caused by a condition or use of tangible personal or real property if the governmental unit would, were it a private person, be liable to the claimant according to Texas law." TCPRC § 101.021(2). TAMU did not address this provision in its plea. Instead, TAMU relied on another provision to insist it cannot be liable because Dr. Watts and other TAMU employees did not harm Ms. Kutyba's horse with a motor vehicle. (*See* C.R. 172, 177-179 (discussing TCPRC § 101.021(1)).)

The TTCA waives sovereign immunity here because the waiver is "effected by clear and unambiguous language." *See* Tex. Gov't Code § 311.034. "If a statute is clear and unambiguous, we apply its words according to their common meaning without resort to rules of construction or extrinsic aids." *In re Estate of Nash*, 220 S.W.3d 914, 917 (Tex. 2007).

First, to waive immunity, the TTCA requires a "death." TCPRC § 101.021(2). Ms. Kutyba has alleged that Dazzle died as a result of her treatment at TAMU. (C.R. 102 (¶ 2), 116 (¶ 49).) Rules of statutory construction require courts to "construe the statute's words according to their plain and common

meaning . . . unless a contrary intention is apparent from the context . . . or unless such a construction leads to absurd results." *City of Rockwall v. Hughes*, 246 S.W.3d 621, 625-26 (Tex. 2008). The TTCA does not limit the word "death" to the death of a person, and no "contrary intention is apparent from the context." *See id.* And for the reasons outlined below, construing "death" to include the death of animals like Dazzle would not lead to an absurd result. *See id.*

Second, to waive immunity, the TTCA requires an alleged death to be "caused by a condition or use of tangible personal or real property." TCPRC § 101.021(2). Ms. Kutyba satisfies this requirement, too, because she alleges Dazzle's death was caused "by a condition or use of tangible personal or real property," including the condition or use of diagnostic devices, including farrier equipment, glue-on shoes, radiological equipment and images, harnesses and other safety devices, stalls, medication, and video cameras for monitoring. (C.R. 120-122 (¶ 57).)

Last, even with the two conditions above met, the TTCA only waives sovereign immunity "if the governmental unit would, were it a private person, be liable to the claimant according to Texas law." TCPRC § 101.021(2). Ms. Kutyba also satisfies this condition. Under Texas law, Ms. Kutyba's allegations would support a negligence claim against TAMU and Dr. Watts, were they private persons. *See Gabriel v. Lovewell*, 164 S.W.3d 835, 849 (Tex. App.—Texarkana

2005, no pet.) (affirming jury finding of negligence based on death of a horse); *Rollins v. Williams*, No. 99-07446-J, 2001 WL 1519328 (191st Dist. Ct., Dallas County, Tex. Jan. 15, 2001) (jury verdict for plaintiff based on veterinary negligence causing death of horse).

Indeed, at least one Texas court has held that facts similar to those alleged here support a negligence claim against a veterinarian. In *Pruitt v. Box*, 984 S.W.2d 709, 711 (Tex. App.—El Paso 1998, no pet.), a plaintiff presented expert testimony to support allegations that a veterinarian's misuse of a product to repair a horse's hoof increased the horse's chance of death. After the trial court granted the veterinarian summary judgment, the plaintiff appealed. The appeals court reversed. The appeals court concluded the plaintiff's expert testimony created a genuine issue of material fact as to whether the veterinarian's misuse of the hoof-repair product increased the horse's chance of death. *Box*, 984 S.W.2d at 712.

Like *Pruitt v. Box*, Ms. Kutyba similarly has alleged Dr. Watts misused farrier equipment and glue-on shoes on Dazzle's hooves, which in turn increased the chance of Dazzle's death. This case illustrates that these limited facts would suffice to create a jury issue regarding TAMU's liability if it were a private person. *See id.*

Because Ms. Kutyba alleges facts sufficient to qualify for the TTCA's waiver of sovereign immunity, the Court should have denied TAMU's plea, and

reversal is warranted. Ms. Kutyba has stated a valid cause of action and her case should proceed.

2. Several Factors Support Waiving Immunity in Cases Like This

Because this appeal presents an issue of first impression, Ms. Kutyba offers several additional reasons, beyond the plain terms of the TTCA, to support waiving sovereign immunity here:

a. The Texas Education Code Contemplates Potential Lawsuits Against TAMU Veterinarians

The Texas Education Code reinforces that the TTCA's waiver applies here. The Texas Education Code expressly requires TAMU to indemnify "a member of the medical staff or a student" for certain "medical malpractice claims" and requires the Attorney General's approval of such settlements. *See* Tex. Educ. Code § 59.08(a), (e). The Code defines "Medical staff or students" to include "medical doctors, doctors of osteopathy, dentists, ***veterinarians***, and podiatrists" employed by TAMU. Tex. Educ. Code § 59.01(1) (emphasis added). "Medical malpractice claim" is defined as "a cause of action for treatment, lack of treatment, or other claimed departure from accepted standards of care which proximately results in injury to or death of the patient." Tex. Educ. Code § 59.01(2). "Patient" is left undefined.

Because veterinarians are included in the Code's definition of "Medical staff," and veterinarians' *only* patients are non-human species, the term "patient" in

the Texas Education Code must include non-human species. *See* Tex. Educ. Code § 59.01(2); *see also* Tex. Admin. Code § 573.20(a) (in rules governing veterinarians, referring to the animal as the patient); Tex. Health & Safety Code § 481.002(32), (39) (defining "patient" as a human or an animal being seen by a "practitioner"; defining "practitioner" to include both physicians and veterinarians).

And because the Texas Education Code expressly recognizes that TAMU's veterinarians might be held liable for causes of action arising out of the death of their patients, it follows the legislature expected that both TAMU and TAMU veterinarians might be sued. But the only way for a veterinarian employed by TAMU to be sued would be if the TTCA's waiver applies.

The core services provided by a veterinarian do not include operating a motor vehicle. It therefore is absurd to suggest, as TAMU does here, that the only way TAMU or its veterinarians might be sued would be if they injured or killed their animal patients by using a motor vehicle in the scope of their employment. *See* TCPRC § 101.021(1); *see also* Tex. Gov't Code § 311.023(5) (in construing statute, a court may consider the "consequences of a particular construction"); *In re Seizure of Gambling Proceeds & Devices*, 261 S.W.3d 439, 445 (Tex. App.—Houston [14th Dist.] 2008, pet. denied) ("Courts should not read a statute to create an absurd result.").

b. Texas Statutes and Case Law Do Not Meaningfully Distinguish Between Medical Providers and Veterinarians

As further support that the TTCA's waiver for "deaths" should include the deaths of animals caused by veterinary negligence, Texas statutes and case law group veterinarians with other medical providers treating human patients.

As already mentioned, the Texas Education Code treats state-employed veterinarians and human health care providers under the same rubric. *See above* at § 2(a); Tex. Educ. Code § 59.001 (defining "Medical staff or students" to include both physicians and veterinarians employed by TAMU). Other Texas statutes similarly group veterinarians with physicians and other human health providers. *See, e.g.*, Tex. Ins. Code § 1901.001(1) (defining "health care provider" to include veterinarians, along with a range of other individuals seeing only human patients, such as registered nurses, dentists, and hospitals); Tex. Health & Safety Code § 481.002(39) (defining "practitioner" to include both physicians, veterinarians, and the institutions employing them); Tex. Occ. Code § 101.002 (creating a Health Professions Council that includes a member appointed by the State Board of Veterinary Medical Examiners).

Further, outside the TTCA context, courts typically apply the same legal standards to veterinary negligence and medical malpractice cases. *Gonzalez v. S. Tex. Veterinary Assocs., Inc.*, 13-12-00519-CV, 2013 WL 6729873, at *3 (Tex. App.—Corpus Christi Dec. 19, 2013, pet. denied) (mem. op.) ("[W]e apply the

medical standard of negligence to a claim of veterinary negligence."); *McGee v. Smith*, 107 S.W.3d 725, 727 (Tex. App.—Fort Worth 2003, pet. denied) ("[V]eterinarian negligence cases are to be analyzed under the same standard applied to physicians and surgeons in medical malpractice cases."); *Hendrick v. Ashburn*, No. 09-92-260 CV, 1993 WL 389197, at *4 (Tex. App.—Beaumont Sept. 30, 1993, writ denied) (not designated for publication) ("We find no basis for distinguishing the rule applied in medical malpractice and in a case involving veterinary malpractice."); *see also Simpson v. Baronne Veterinary Clinic, Inc.*, 803 F. Supp. 2d 602, 608 (S.D. Tex. 2011) ("Texas courts have applied the same standard of care to medical negligence cases as to veterinary negligence cases."). *Cf. Box*, 984 S.W.2d at 711 (declining to decide whether medical malpractice standards apply because "issue of causation is dispositive" and plaintiff's evidence sufficed to defeat summary judgment).

Together, these statutes and cases reflect a strong policy in this state to hold veterinarians to the same standards as their medical doctor counterparts. Reading the TTCA's waiver of immunity to include a waiver for veterinary negligence is consistent with this principle. Under Texas law, veterinarians are not excluded from other statutory standards and should not be for the TTCA. Reading otherwise, there is a blanket freedom for veterinary negligence in Texas—where veterinarians could never be held liable—even though their medical doctor counterparts could.

Under the TTCA, physicians employed by the state of Texas may expose the state to liability when their acts cause the death of their patients. *See, e.g.*, *Tex. Tech Univ. Health Scis. Ctr. v. Mendoza*, No. 08-01-00061-CV, 2003 Tex. App. LEXIS 2370, at *14 (Tex. App.—El Paso Mar. 20, 2003, pet. denied) (mem. op.). For reasons of statutory construction and public policy, the same should be true for state veterinary medical providers. If the Court were to rule otherwise, it would undercut the strong policy articulated under Texas law and inject the interpretation and enforcement of the case law and statutes referenced above with uncertainty.

All these factors thus further favor the waiver of immunity for "death" to apply to cases like this one, where the alleged death is one of an animal.

c. Immunizing TAMU Veterinarians From Liability in All Circumstances Not Involving a Motor Vehicle Would Compromise the Standard of Care All Veterinarians Must Meet

Rule 573.22 outlines the professional standard of care that state-licensed veterinarians must meet, irrespective of their employer's governmental status:

> Licensees shall exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances, including the type of practice, by average members of the veterinary medical profession in good standing in the locality or geographic community in which they practice, or in similar communities.

22 Tex. Admin. Code § 573.22.

The operation of a motor vehicle is, at best, tangential to a veterinarian's treatment of its patients. Limiting the state of Texas' liability to animal deaths

caused by a veterinarian operating a motor vehicle, as the defendant argued below, would offer no real means of ensuring that the state's own standard of care for veterinarians is consistently met.

While the Texas State Board of Veterinary Medical Examiners offers an administrative process by which individuals may file complaints against veterinarians whose care harms their pets, this process is not meant to be an alternative to a lawsuit. To illustrate, on February 17, 2016, Ms. Kutyba filed a complaint with the Board based on the facts underlying the petition in this case. On April 25, 2018, after nearly 800 days, Ms. Kutyba was finally informed that the investigation was complete and the case will be closed without further investigation.[2] There is no relief through the administrative process for a defendant's negligent acts.

In addition to providing a litigant with possible relief, lawsuits also offer private citizens the only means of upholding the standard of care for Texas-licensed veterinarians articulated under the Texas Administrative Code. If this Court concludes the TTCA does not waive immunity for the death of a horse except for when a motor vehicle causes that death, it effectively will free TAMU-employed veterinarians from accountability in nearly all cases. More troublingly,

[2] Ms. Kutbya is currently appealing this decision in Travis County District Court.

because the veterinary standard of care is inherently comparative, not upholding the standard with respect to state-employed veterinarians will degrade the quality of veterinary medical care across the board. *See* 22 Tex. Admin. Code § 573.22 ("Licensees shall exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances…"). Surely the Texas legislature did not intend this outcome. *In re Seizure*, 261 S.W.3d at 445 ("Courts should not read a statute to create an absurd result.").

d. Waiving Immunity Here Will Not Open the Floodgates to New Litigation

Given the legal support for the reading of "death" that Ms. Kutyba proposes, *see* § 2(a)-(c) above, it is surprising that this lawsuit presents an issue of first impression. Nonetheless, a case like this one does not appear to have been brought before, and existing law and policy counsel that the TTCA should not distinguish between veterinary doctors and physicians—that is, plaintiff-appellants like Ms. Kutyba should be able to have their day in court.

The Court need not worry that construing the TTCA to waive immunity for the death of pets would cause litigants to stampede into Texas courthouses. The TTCA's other limits would constrain any such lawsuit, including the limitation that the death must be "caused by a condition or use of tangible personal or real property." TCPRC § 101.021(2). This limiting language would continue to protect the state's interest in not wasting resources on defending frivolous litigation.

In contrast, TAMU's proposed construction would erect impossibly high barriers to litigation and allow the state to escape liability for veterinary negligence in nearly all conceivable cases (except where a motor vehicle is involved). Because TAMU's construction would produce an absurd result given the various factors outlined above, the Court should reject it. *In re Seizure*, 261 S.W.3d at 445 ("Courts should not read a statute to create an absurd result.").

3. The Trial Court Erred in Granting TAMU's Motion to Dismiss Dr. Watts Because in Most Circumstances, TCPRC § 101.106(e) Requires Summary Judgment Evidence Before Purported "Employees" May Be Dismissed

The Texas Tort Claims Act states: "If a suit is filed under this chapter against both a governmental unit and any of its employees, the employees shall immediately be dismissed on the filing of a motion by the governmental unit." TCPRC § 101.106(e). This provision does not require the dismissal of a governmental unit's independent contractors. TCPRC § 101.001(2) defines "employee" as a person:

> who is in the paid service of a governmental unit by competent authority, but does not include an independent contractor, an agent or employee of an independent contractor, or a person who performs tasks the details of which the governmental unit does not have the legal right to control.

For Dr. Watts to be an "employee" sufficient to allow dismissal under TCPRC § 101.106(e), instead of an "independent contractor," TAMU must show (1) Dr. Watts was "in the paid service" of TAMU and (2) TAMU had the "right to

control" Dr. Watts' work. *Marino v. Lenoir*, 526 S.W.3d 403, 406 (Tex. 2017), *reh'g denied* (Sept. 22, 2017) (emphasizing burden on the defendant to meet both prongs).

TAMU had the burden to show dismissal is proper under TCPRC § 101.106. The relevant standard "generally mirrors that of a summary judgment under Texas Rule of Civil Procedure 166a(c)," meaning the court must "take as true all evidence favorable to the nonmovant" and "indulge every reasonable inference and resolve any doubts in the nonmovant's favor." *Lenoir v. Marino*, 469 S.W.3d 669, 675 (Tex. App.—Houston [1st Dist.] 2015), *aff'd*, 526 S.W.3d 403 (Tex. 2017), *reh'g denied* (Sept. 22, 2017). Dismissal under TCPRC § 101.106 is only appropriate if the governmental entity comes forward with sufficient evidence to establish an individual is its employee. *See Smith v. Altman*, 26 S.W.3d 705, 710 (Tex. App.—Waco 2000, pet. dism'd w.o.j.) (affirming denial of summary judgment on issue of whether doctor was an employee or independent contractor under TCPRC § 101.106 due to disputed fact issue); *see also Buchanan v. Bridges*, No. 03-95-00102-CV (Tex. App.—Austin Feb. 7, 1996, pet. denied) (mem. op., not designated for publication), *available at* http://www.search.txcourts.gov/SearchMedia.aspx?MediaVersionID=688a3837-1a3c-4bcc-8f1d-24b6f9cd7bf0&coa=coa03&DT=Opinion&MediaID=cd886da5-b89b-4dea-8260-815c12d97b02 (reversing summary judgment, stating that

whether the requisite right of control exists is usually a question of fact, and holding that issue of fact existed as to whether doctor was an employee of university). TAMU failed to meet this evidentiary burden.

a. TAMU Provided Only Conclusory Materials, Which is Insufficient Evidence

Importantly, conclusory affidavits will not suffice to meet a defendant's burden under TCPRC § 101.106. *See generally Lenoir*, 469 S.W.3d at 686. TAMU, however, short-circuited the relevant analysis with two affidavits that state, in conclusory fashion, that Dr. Watts is in the "paid service" of TAMU. (*See* C.R. 97-98.) TAMU attached absolutely no documents to these affidavits or to its motion, and it presented no other evidence otherwise supporting the conclusion that Dr. Watts is TAMU's "employee." (*See id.*) In short, TAMU did not present any probative evidence that Dr. Watts is its "employee."

The conclusory affidavits TAMU provided with its motion differ dramatically from evidence sufficient to warrant dismissal in other cases. For example, in *Murk v. Scheele*, 120 S.W.3d 865, 867 (2003), the Texas Supreme Court approved of dismissal of a doctor when the summary judgment record showed he practiced only for the public teaching hospital as a member of its faculty, that all of his compensation came from the teaching hospital, and that all of his medical decisions in the treatment of patients were subject to regimens

prescribed by the teaching hospital, faculty supervision and review, and in some instances, veto by the hospital's senior faculty.

And in *Dalehite v. Nauta*, 79 S.W.3d 243, 245 (Tex. App.—Houston [14th Dist.] 2002, pet. denied), the Fourteenth Court of Appeals approved of dismissal as proper when the summary judgment record, which included deposition excerpts, showed a doctor was the chairman of a department, worked full-time as a professor of neurosurgery, treated patients and instructed medical students at UTMB, signed an employment contract, was paid a salary, provided with employee benefits and insurance, received an office, support staff, and equipment necessary to do his work. Notably, the doctor's attempt to include his own conclusory interrogatory response was rejected. *Id.*

These cases underscore that the question of whether Dr. Watts is an employee or independent contractor is premature; it requires factual development. (*Compare* C.R. 97-98, Exhibits B, C (stating, without elaboration, that Dr. Watts is in the "paid service" of TAMU) *with Murk*, 120 S.W.3d at 867; *Dalehite*, 79 S.W.3d at 245 (involving significant factual detail allowing Court to reach legal conclusions).)

Only where the pleadings unequivocally show there is no factual dispute as to this issue would dismissal be appropriate. *See Univ. of Tex. Health Sci. Ctr. at*

Hous. v. Rios, No. 16-0836, 2017 WL 6396028, at *3 (Tex. Dec. 15, 2017) (question of whether defendants were employees resolved by plaintiff's pleadings).

Here, Ms. Kutyba did not plead that Dr. Watts was an employee of TAMU; to remove any potential (and unintended) ambiguity about this issue, Ms. Kutyba amended her petition to unequivocally state Ms. Kutyba is not TAMU's employee under § 101.106(e).[3] (C.R. 117 (¶ 51).) Supporting that Ms. Kutyba consistently has sought to pursue claims against Dr. Watts as an independent contractor is that Ms. Kutyba pled separate claims against Dr. Watts, on the one hand, and TAMU and its employees, on the other. (*See* C.R. 117-125 (¶¶ 51-65).)

At a minimum, Ms. Kutyba should have been able to obtain discovery relevant to this motion before the court decides the issue. *See generally* TRCP 166a(c) (detailing the type of evidence that may be considered on summary judgment). To illustrate, in *Altman*, 26 S.W.3d at 710, a hospital's contract with a doctor stated that the doctor "shall not be deemed to be an employee of facility for any purpose whatsoever and . . . shall not be eligible to participate in any benefit program provided by the facility for its employees." The trial court denied the doctor's motion for summary judgment on the issue of whether she was an

[3] To remove the potential for confusion that could be derived from Ms. Kutyba's use of a generic list of TAMU's veterinary staff believed to be employed by defendant TAMU, Ms. Kutyba amended her petition to more simply allege that TAMU is responsible for the acts of its employees. (*See* C.R. 119-122 (¶¶ 55, 57).)

employee or independent contractor. The court of appeals affirmed and reasoned that these statements raised a fact question as to whether the doctor was an employee or independent contractor.

b. Further, Dr. Watts "Performs Tasks The Details of Which [TAMU] Does Not Have The Legal Right To Control"

As stated, the Texas Tort Claims Act also provides that an "employee" does "not include . . . a person who performs tasks the details of which the governmental unit does not have the legal right to control." TCPRC § 101.001(2). It is critical to point out that, notwithstanding Dr. Watts' alleged employment by TAMU, there are numerous, key aspects of Dr. Watts' work which involve tasks that are not under TAMU's control. This would be evident as a factual matter if discovery is allowed to proceed; it is also evident as a legal matter.

For example, Rule 573.20 provides that the "decision to accept an animal as a patient is at the sole discretion of a veterinarian." 22 Tex. Admin. Code § 573.20. Further, under Rule 573.21, a "licensee shall not allow a non-licensed person or entity to interfere or intervene with the licensee's practice." 22 Tex. Admin. Code § 573.21. Both of these provisions underscore the control that a veterinarian has over the details of his or her practice, including the decision to accept a particular animal as a patient, and the medical decisions which a veterinarian makes independent of bureaucratic oversight. This is made clear in Rule 575.50, which states that a veterinarian is in a position "of public trust" and practices "in an

autonomous role in the treating and safekeeping of animals . . . ." 22 Tex. Admin. Code § 575.50(f); *see also Lindsey v. Tex. State Bd. of Veterinary Med. Exam'rs*, Nos. 03-16-00549-CV, 03-17-00513-CV, 2018 WL 1976577, at *6 (Tex. App.—Austin April 27, 2018, no pet.) (mem. op.) (discussing this rule and concluding that none of the practices for which a licensee is autonomous was an improper expansion of the definition of the practice of veterinary medicine). Finally, the language in Rule 573.21 pointedly states that a "licensee shall be responsible for his or her own actions and is directly responsible to the client and for the care and treatment of the patient." 22 Tex. Admin. Code § 573.21.[4] TAMU has yet to provide sufficient evidence to establish the terms at which Dr. Watts work was subject to internal order and mechanisms of approval, which could even arguably make her come under TCPRC § 101.001.

In sum, the trial court should have allowed discovery to proceed before deciding whether Dr. Watts is TAMU's employee or independent contractor, whether she performs tasks not under TAMU's control, and whether the evidence raises a genuine factual dispute warranting the jury's consideration at trial. *See*

[4] To hold that TAMU has the right to control the progress, details, and methods of operation of Dr. Watts' work—as is required to conclude that she is acting in the capacity of an employee—would contravene this regulatory structure. Further, this conclusion may affect the greater licensing population insofar as it would support allowing non-licensed persons or entities to control a veterinarian's individual means to practice, diagnose, and treat their patients.

Altman, 26 S.W.3d at 710. Granting TAMU's motion at an early phase and on the inadequate evidence presented amounted to error. This Court should reverse.

4. The Trial Court Erred in Overruling Ms. Kutyba's Objections to TAMU's evidence

Ms. Kutyba objected to the sole evidence presented by TAMU in support of its motion to dismiss Dr. Watts: two conclusory affidavits, one by Dr. Watts and one by a business administrator at TAMU named Dana McMahon. Dr. Watts' affidavit simply regurgitated the language of the TCPRC § 101.001(2); it stated that Dr. Watts was "in the paid service" of TAMU and acting "in the course and scope of [her] employment" at all relevant times. (C.R. 97.) The affidavit provides no detail or evidence to support either statement. (*See id.*) Ms. McMahon's affidavit confirms, with little elaboration, that Dr. Watts "was and currently is in paid employment status with [TAMU]." (C.R. 98.)

Both affidavits are improper evidence because they offer only conclusory statements. Conclusory statements in affidavits are insufficient to establish the existence of a fact. *See, e.g., Ryland Grp., Inc. v. Hood*, 924 S.W.2d 120, 122 (Tex. 1996); *Brownlee v. Brownlee*, 665 S.W.2d 111, 112 (Tex. 1984); *James L. Gang & Assocs., Inc. v. Abbott Labs., Inc.*, 198 S.W.3d 434, 442 (Tex. App.—Dallas 2006, no pet.). "A conclusory statement is one that does not provide the underlying facts to support the conclusion." *Weech v. Baptist Health Sys.*, 392 S.W.3d 821, 826

(Tex. App.—San Antonio 2012, no pet.). When an affidavit simply paraphrases statutory language, it is conclusory and lacks probative force. *See Selz v. Friendly Chevrolet, Ltd.*, 152 S.W.3d 833, 837 (Tex. App.—Dallas 2005, no pet.); *Nichols v. Lightle*, 153 S.W.3d 563, 570 (Tex. App.—Amarillo 2004, pet. denied).

TAMU's two affidavits are quintessentially conclusory. They parrot TCPRC § 101.001(2)'s statutory language and make no attempt to ground their assertions in relevant facts or provide any documentary support. The affidavits therefore lack any probative force. By overruling Ms. Kutyba's objections to them, the trial court erred and, in turn, improperly granted TAMU's motion to dismiss. The Court should reverse to allow Ms. Kutyba to obtain discovery relevant to this fact-intensive issue.

In conclusion, Ms. Kutyba urges this Court to rule that the TTCA waives immunity under the facts of this case—the death of her horse—in order to bring veterinary doctors up to the same standard as their medical counterparts. Ms. Kutyba also urges that fact development should proceed on the issue of Dr. Watts' employment. It would be possible for this court to rule affirmatively on the first issue, but negatively on the second and still send the case back for trial. However, the great weight of authority counsels that conclusory affidavits do not suffice to resolve the issue of whether Dr. Watts is an employee under the TTCA.

PRAYER

For these reasons, Ms. Kutyba respectfully requests that the Court reverse the trial court's judgment below and remand the case for it to proceed to discovery and trial.

RESPECTFULLY SUBMITTED,

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CERTIFICATE OF SERVICE

I certify that on August 15, 2018, courtesy copies of this brief were provided in electronic form at the same time this instrument was filed with the Court to counsel listed below.

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CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Tex. R. App. P. 9.4(i)(2)(B) because it contains 5,483 words, excluding the parts of the brief exempted by Tex. R. App. P. 9.4(i)(1).
2. This brief complies with the typeface requirements of Tex. R. App. P. 9.4(e) because it has been printed in a conventional typeface no smaller than 14-point except for footnotes, which are no smaller than 12-point.

/s/ Mary B. Conner
Mary B. Conner

INDEX FOR REQUIRED APPENDIX

Number	Document	Citation
1	Trial Court's Judgment	Supp. C.R. 9-10
2	Order granting Defendant Texas A&M University's Motion to Dismiss Defendant Watts Pursuant to Tex. Civ. Prac. & Rem. Code § 101.106(e)	2d Supp. C.R. 8-9
3	Order granting Defendant Texas A&M University's Plea to the Jurisdiction (signed 4/17/18)	C.R. 195
4	Order on Plaintiff's Objections to Defendants' Exhibits (signed 5/12/18)	C.R. 198
5	Statutory and Regulatory Excerpts	–

APPENDIX 1

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No. 17-2110-CV-361

HEATHER KUTYBA,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
v.	§	BRAZOS COUNTY, TEXAS
	§	
ASHLEE E. WATTS, D.V.M. and TEXAS A&M UNIVERSITY,	§	361ST JUDICIAL DISTRICT COURT
	§	
Defendants.	§	

Final Judgment

On January 30, 2018, the Court heard the defendant Texas A&M University's Motion to Dismiss Defendant Watts Pursuant to Tex. Civ. Prac. & Rem. Code § 101.106(e) and responsive briefing provided by the parties. Both parties were represented by counsel at the hearing. On February 5, 2018, the Court granted the motion and dismissed defendant Ashlee E. Watts, D.V.M. from this cause.

On April 6, 2018, the Court heard the defendant Texas A&M University's Plea to the Jurisdiction and Brief in Support and responsive briefing provided by the parties. Both parties were represented by counsel at the hearing. On April 17, 2018, the Court granted the plea.

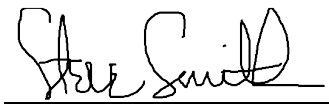
As a result of the Court's February 5, 2018 and April 17, 2018 orders, no issues remain pending in this cause. The Court has considered the pleadings and official records on file in this cause and is of the opinion that judgment should be rendered for the defendants.

It is therefore ORDERED, ADJUDGED, and DECREED that defendants are

entitled to a judgment under Texas law. It is further ORDERED, ADJUDGED, and DECREED that the plaintiff take nothing on all claims alleged or which could have been alleged against the defendants. The parties shall bear their own costs.

This is a final judgment disposing of all issues and all parties. All prior interlocutory orders of the Court in this cause are hereby made final, and this judgment is appealable.

Signed on: June 6, 2018



The Honorable Steve Smith

APPENDIX 2

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CAUSE NO. 17-002110-CV-361

HEATHER KUTYBA, Plaintiff,	§	IN THE DISTRICT COURT OF
v.	§	BRAZOS COUNTY, TEXAS
ASHLEE E. WATTS, D.V.M., TEXAS A&M VETERINARY MEDICAL TEACHING HOSPITAL, and TEXAS A&M UNIVERSITY, Defendants.	§	361st JUDICIAL DISTRICT

ORDER GRANTING DEFENDANT TEXAS A&M UNIVERSITY'S MOTION TO DISMISS DEFENDANT WATTS PURSUANT TO TEX. CIV. PRAC. & REM. CODE § 101.106(e)

On February 5, 2018, the court heard Defendant Texas A&M University's Motion to Dismiss Defendant Watts pursuant to Tex. Civ. Prac. & Rem. Code § 101.106(e) and the court, after examining the pleadings and evidence and hearing arguments of counsel, ORDERS as follows:

IT IS ORDERED, ADJUDGED and DECREED that Defendant Texas A&M University's Motion to Dismiss Defendant Watts pursuant to Tex. Civ. Prac. & Rem. Code § 101.106(e) is hereby GRANTED and Plaintiff's cause of action is hereby dismissed with prejudice against Defendant Watts.

SIGNED on February 5, 2018, 2018.

JUDGE STEVE SMITH
Presiding in the 361st Judicial District

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APPENDIX 3

Received & Filed 4/6/2018 10:39 AM
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CAUSE NO. 17-002110-CV-361

HEATHER KUTYBA, Plaintiff, v. TEXAS A&M UNIVERSITY, Defendant.	§ § § § § § §	IN THE DISTRICT COURT OF BRAZOS COUNTY, TEXAS 361st JUDICIAL DISTRICT

ORDER GRANTING DEFENDANT TEXAS A&M UNIVERSITY'S PLEA TO THE JURISDICTION

On April 6, 2018, the court heard Defendant Texas A&M University's Plea to the Jurisdiction and the court, after examining the pleadings and considering the law, ORDERS as follows:

IT IS ORDERED, ADJUDGED and DECREED that Defendant Texas A&M University's Plea to the Jurisdiction is hereby GRANTED.

SIGNED on April 17, 2018, 2018.

JUDGE STEVE SMITH
Presiding in the 361st Judicial District

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APPENDIX 4

Received & Filed 1/29/2018 6:04 PM
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No. 17-2110-CV-361

HEATHER KUTYBA, Plaintiff, v. ASHLEE E. WATTS, D.V.M. and TEXAS A&M UNIVERSITY, Defendants.	§ § § § § § § § § §	IN THE DISTRICT COURT OF BRAZOS COUNTY, TEXAS 361ST JUDICIAL DISTRICT COURT

Order on Plaintiff's Objections to Defendants' Exhibits

Having reviewed the plaintiff's 1/2/18 objections to the defendant Texas A&M University's exhibits provided in support of its 11/1/17 Motion to Dismiss Defendant Watts, the Court rules as follows:

Exhibit	Plaintiff's Objection	Ruling	
B	Conclusory/Not Probative	[redacted]	Overruled
C	Conclusory/Not Probative	[redacted]	Overruled

Signed on May 12, 2018.

The Honorable Steve Smith

APPENDIX 5

The Texas Tort Claims Act (TCPRC Ch. 101)

Sec. 101.001. DEFINITIONS. In this chapter:

* * *

(2) "Employee" means a person, including an officer or agent, who is in the paid service of a governmental unit by competent authority, but does not include an independent contractor, an agent or employee of an independent contractor, or a person who performs tasks the details of which the governmental unit does not have the legal right to control.

* * *

Sec. 101.021. GOVERNMENTAL LIABILITY. A governmental unit in the state is liable for:

(1) property damage, personal injury, and death proximately caused by the wrongful act or omission or the negligence of an employee acting within his scope of employment if:

(A) the property damage, personal injury, or death arises from the operation or use of a motor-driven vehicle or motor-driven equipment; and

(B) the employee would be personally liable to the claimant according to Texas law; and

(2) personal injury and death so caused by a condition or use of tangible personal or real property if the governmental unit would, were it a private person, be liable to the claimant according to Texas law.

Sec. 101.106. ELECTION OF REMEDIES.

* * *

(e) If a suit is filed under this chapter against both a governmental unit and any of its employees, the employees shall immediately be dismissed on the filing of a motion by the governmental unit.

* * *

Texas Administrative Code
Title 22. Examining Boards
Part 24. Texas Board of Veterinary Medical Examiners
Chapter 573. Rules of Professional Conduct
Subchapter C. Responsibilities to Clients

22 TAC § 573.20

§ 573.20. Responsibility for Acceptance of Medical Care

Currentness

(a) The decision to accept an animal as a patient is at the sole discretion of a veterinarian. The veterinarian is responsible for determining the diagnosis and course of treatment for an animal that has been accepted as a patient and for advising the client as to the diagnosis and treatment to be provided.

(b) For purposes of establishing a veterinarian-client-patient relationship under §801.351 of the Veterinary Licensing Act, Texas Occupations Code, a veterinarian can obtain sufficient knowledge of an animal by making medically appropriate and timely visits to the premises on which the animal is kept only if the animal is a member of a herd.

(c) A veterinarian must inform a client when:

(1) the client has specifically requested that the veterinarian diagnose and/or treat the client's animal; and

(2) the veterinarian reasonably believes there is a likelihood or possibility that another veterinarian may perform some or all of the diagnosis and/or treatment of the patient.

(d) Once a veterinarian-client-patient relationship has been established, a veterinarian may discontinue treatment:

(1) at the request of the client;

(2) after the veterinarian substantially completes the treatment or diagnostics prescribed;

(3) upon referral to another veterinarian; or

(4) after notice to the client providing a reasonable period for the client to secure the services of another veterinarian.

(e) Once a veterinarian establishes a veterinarian-client-patient relationship and prescribes medication(s), another Texas licensed veterinarian within the same clinic or hospital who has access to the patient's current medical records may refill that same prescription(s) without a veterinary-client-patient relationship.

Credits

Source: The provisions of this §573.20 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective August 29, 2013, 38 TexReg 5487; amended to be effective May 4, 2015, 40 TexReg 2418.

Current through 43 Tex.Reg. No. 5024, dated July 27, 2018, as effective on or before July 27, 2018

22 TAC § 573.20, 22 TX ADC § 573.20

End of Document

Texas Administrative Code
Title 22. Examining Boards
Part 24. Texas Board of Veterinary Medical Examiners
Chapter 573. Rules of Professional Conduct
Subchapter C. Responsibilities to Clients

22 TAC § 573.21

§ 573.21. Direct Responsibility to Client

Currentness

The professional services of a licensee shall not be controlled or exploited by any lay agency, personal or corporate, which intervenes between the client and the licensee. A licensee shall not allow a non-licensed person or entity to interfere or intervene with the licensee's practice; nor shall the licensee submit to such interference or intervention by a non-licensed person or entity. A licensee shall avoid all relationships which could result in interference or intervention in the licensee's practice by a non-licensed person or entity. A licensee shall be responsible for his or her own actions and is directly responsible to the client and for the care and treatment of the patient.

Credits

Source: The provisions of this §573.21 adopted to be effective June 14, 2012, 37 TexReg 4229.

Current through 43 Tex.Reg. No. 5024, dated July 27, 2018, as effective on or before July 27, 2018

22 TAC § 573.21, 22 TX ADC § 573.21

End of Document

Texas Administrative Code
Title 22. Examining Boards
Part 24. Texas Board of Veterinary Medical Examiners
Chapter 573. Rules of Professional Conduct
Subchapter C. Responsibilities to Clients

22 TAC § 573.22

§ 573.22. Professional Standard of Care

Currentness

Licensees shall exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances, including the type of practice, by average members of the veterinary medical profession in good standing in the locality or geographic community in which they practice, or in similar communities.

Credits

Source: The provisions of this §573.22 adopted to be effective June 14, 2012, 37 TexReg 4229; amended to be effective May 4, 2015, 40 TexReg 2419.

Current through 43 Tex.Reg. No. 5024, dated July 27, 2018, as effective on or before July 27, 2018

22 TAC § 573.22, 22 TX ADC § 573.22

End of Document

Texas Administrative Code
Title 22. Examining Boards
Part 24. Texas Board of Veterinary Medical Examiners
Chapter 575. Practice and Procedure

22 TAC § 575.50

§ 575.50. Criminal Convictions

Currentness

(a) In a process under Chapter 53, Occupations Code, the Board may suspend or revoke an existing license, disqualify a person from receiving a license, or deny a person the opportunity to be examined for a license because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of a veterinarian, a licensed veterinary technician, or an equine dental provider. This subsection applies to persons who are not imprisoned at the time the Board considers the conviction.

(b) The Board shall revoke a license upon the imprisonment of a licensee following a felony conviction or revocation or felony community supervision, parole, or mandatory supervision. A person currently incarcerated because of a felony conviction may not sit for license examination, obtain a license under the Veterinary Licensing Act, Occupations Code, Chapter 801, or renew a previously issued license.

(c) The Board shall, in determining whether a criminal conviction directly relates to the duties and responsibilities of a licensee, consider the factors listed in the Occupations Code, § 53.022.

(d) In determining the present fitness to perform the duties and discharge the responsibilities of a licensee who has been convicted of a crime, the Board shall consider, in addition to the factors referenced in subsection (c) of this section, the factors listed in the Occupations Code, § 53.023.

(e) Under Occupations Code § 801.402, a person is subject to denial of a license or to disciplinary action under Occupations Code § 801.401 if the person engages in illegal practices connected with the practice of veterinary medicine or the practice of equine dentistry.

(f) The professional practices of veterinarians, licensed veterinary technicians, and equine dental providers place those licensees in positions of public trust. A licensee practices in an autonomous role in the treating and safekeeping of animals; preparing and safeguarding confidential records and information; accepting client funds; and, if the licensee is a veterinarian,

prescribing, administering and safely storing controlled substances. The following crimes therefore relate to and are connected with the practices of veterinarians, licensed veterinary technicians, and equine dental providers because the commission of each indicates a violation of the public trust, and a lack of integrity and respect for one's fellow human beings and the community at large:

(1) any felony or misdemeanor conviction of which fraud, dishonesty or deceit is an essential element;

(2) any criminal violation of the Veterinary Licensing Act, or other statutes regulating or pertaining to the licensee's practice or profession;

(3) any criminal violation of statutes regulating other professions in the healing arts;

(4) deceptive business practices;

(5) a misdemeanor or felony offense involving:

(A) murder;

(B) assault;

(C) burglary;

(D) robbery;

(E) theft;

(F) sexual assault;

(G) injury to a child or to an elderly person;

(H) child abuse or neglect;

(I) tampering with a government record;

(J) animal cruelty;

(K) forgery;

(L) perjury;

(M) bribery;

(N) mail fraud;

(O) diversion or abuse of controlled substances, dangerous drug, or narcotic; or

(P) other misdemeanors or felonies, including violations of the Penal Code, Titles 4, 5, 7, 9, and 10, which indicate an inability or tendency of the person to be unable to perform as a licensee or to be unfit for licensure, if action by the Board will promote the intent of the Veterinary Licensing Act, Board rules, including this chapter, and the Occupations Code, Chapter 53.

(g) Notwithstanding the provisions of subsections (a)-(f) of this section, the Board shall suspend or revoke a licensee's license in accordance with the Occupations Code, § 801.406, where the licensee has been convicted of a felony under the Health and Safety Code, § 485.033, or the Health and Safety Code, Chapter 481 or 483.

Credits

Source: The provisions of this §575.50 adopted to be effective July 13, 2008, 33 TexReg 5528; amended to be effective June 20, 2012, 37 TexReg 4429; amended to be effective May 12, 2013, 38 TexReg 2764; amended to be effective December 23, 2013, 38 TexReg 9366; amended to be effective May 4, 2014, 39 TexReg 3430.

Current through 43 Tex.Reg. No. 5024, dated July 27, 2018, as effective on or before July 27, 2018

22 TAC § 575.50, 22 TX ADC § 575.50