BEFORE THE OKLAHOMA STATE BOARD OF VETERINARY MEDICAL EXAMINERS STATE OF OKLAHOMA

IN THE MATTER OF THE COMPLAINT AGAINST:	)	
GINA L. GARDNER an unlicensed individual,	)	**Case No. CX-24-001**
AND	)	
LAWRENCE DePRIEST, an unlicensed individual,	)	
Respondents.	)	

CITATION

YOU ARE HEREBY NOTIFIED THAT ON THE 30th day of October 2023, a sworn Complaint was filed with the undersigned Secretary-Treasurer of the Oklahoma State Board of Veterinary Medical Examiners ("Board"), charging you with violating the following provisions of the Oklahoma Veterinary Practice Act:

> 59 O.S, § 698.8; 59 O.S. § 698.11(A)(1) and (2); 59 O.S. § 698.14a; 59 O.S. § 698.18; 4 O.S. § 502; Board Rules 775:10-8-16.

A Copy of said Complaint is attached hereto and by reference, made a part hereof for all purposes.

On the 1st day of December 2023, the Board will be in regular session at 2:00 p.m. at 2920 N Lincoln Blvd, Oklahoma City, Oklahoma, at which time said Complaint will be considered by the Board and a hearing will be held pursuant to the Oklahoma Administrative Procedures Act, 75 O.S. § 250 *et seq.*

If it be the decision of the Board, after considering all the testimony and documentary evidence, that you have committed the violations alleged in the Complaint,

the Board may take such administrative action as authorized by law, including the assessment of administrative penalties, costs and attorney's fees for this action as provided by law.

Under the laws of the State of Oklahoma, you are required to file your written Answer to the Complaint under oath with the Secretary of the Board within twenty (20) days after the Citation is served upon you. Unless said Answer is so filed, you will be considered in default and if the allegations of the Complaint are deemed sufficient by the Board, the Board may impose disciplinary sanctions authorized by law.

THEREFORE, you are cited to appear at said hearing on said date. If you are not present in person, you may be present by your attorney.

Dated this 30 day of October 2023.



Rebekah Hartfield, DVM
Secretary-Treasurer, OK Board of
Veterinary Medical Examiners

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COMPLAINT

Assistant attorney General Sandra G. LaVenue, counsel to the Oklahoma State Board of Veterinary Medical Examiners ("Board"), being first duly sworn upon oath, and alleges that Respondents, Gina L. Gardner ("Gardner") and Lawrence DePriest ("DePriest")[1], have violated the provisions of the Oklahoma Veterinary Practice Act, 59 O.S. §§ 698.1 *et seq.* ("Act"); the Administrative Rules of the Board OAC 775:5-1-1 *et seq.*; and the Anti-Drug Diversion Act, 63 O.S. § 2-309(A), *et seq.* in the manner set forth below:

GENERAL ALLEGATIONS

1. Respondent Gardner ("Gardner") is a licensed attorney in the State of Oklahoma and is the President of the Human Society of Tulsa ("HST"), a domestic not for profit corporation registered in the State of Oklahoma. Additionally, Gardner is in charge of operations at HST.

[1] Referred to collectively as "Respondents".

2. Respondent DePriest is a veterinary assistant with eleven (11) years of experience and full time employee of HST.

3. Neither Respondent Gardner nor Respondent DePriest hold a license or certificate issued by the Board.

4. Dr. Tembra Gatlin holds DVM license #4923 and has listed one of her practices as HST. Dr. Gatlin maintains two (2) OBNDD registrations. Registration #10000267 is at the business location of HST.

5. Other than Dr. Gatlin, HST has no other employees or affiliated persons licensed by the Board.

6. Dr. Gatlin maintains a mounted locked CDS storage cabinet (key access) and a mobile drug box (secured by key lock) at the HST location. Dr. Gatlin reported to Board Investigator Brian Veazey that the only person with access to the mounted locked CDS storage cabinet or mobile drug box keys other than herself is Respondent DePriest. Dr. Gatlin added that Respondent DePriest has the combination to the key lock box which houses keys to the mounted storage box and the keys to the mobile drug box, pursuant to a DEA Power of Attorney which granted Respondent DePriest authority to order CDS on her behalf.

7. On or about July 13, 2023, the Oklahoma Veterinary Board received a complaint regarding the possible illegal and inhumane euthanasia of eleven (11) dogs at the Second Chance Pet Rescue in Grove, Oklahoma (referred to as "Grove Facility") on July 5, 2023.

8. Board Investigator Brian Veazey conducted the investigation of the complaint. According to several witnesses (Grove Facility employees and volunteers),

approximately four (4) representatives of HST traveled to the Grove Facility and met with one of the Interim Managers to assess the dogs at the overcrowded shelter. The witnesses reported that one (1) puppy and ten (10) dogs were euthanized and twenty-two (22) dogs were loaded up in the HST vehicle to be transported to HST for adoption. These employees and volunteers reported that they were not provided advance notice that dogs would be euthanized and were confused because the Grove Facility was a no-kill shelter. Additionally, it was reported that the Grove Facility Board members were not notified dogs would be euthanized and that they believed the HST event was to assist the Interim Managers with a site visit and assessment. During the investigation, it was discovered that surveillance video was recorded and in the custody of one of the volunteers of the Grove Facility.

9. Subsequent to the complaint, Director Kirkpatrick received a call from a third party regarding what had been reported to them (the third party) as inhumane and illegal euthanasia of several dogs by HST.

10. An Officer with the Grove Police Department sent an email to the Board with three (3) witness statements. One of the witness statements reported that one of the newly appointed interim managers was walking around with one of the HST employees with 11-12 syringes in his back pocket. The person with the syringes was later identified as Respondent DePriest. The witness further reported that he witnessed the interim manager and Respondent DePriest grab two (2) dogs out of a kennel, give them each an injection in the backside, grab them by the scruff of their neck and tail and throw them back in the kennels and shut the door. He further reported he then watched the 2 dogs get "loopy", fall on their side, and foam at the mouth.

11. The witnesses reported that the Grove Facility advertises itself as a no-kill shelter and had recently appointed two new interim managers. The witnesses reported being upset by what they had seen and that they were told only that HST was coming to provide training and help with vaccinations.

12. An Inspector for the Oklahoma Department of Agriculture, reported to Investigator Veazey that one of the Grove Facility's interim managers reached out seeking guidance on managing the overcrowded facility. The interim manager was given Respondent Gardner's contact information as a resource for assistance.

13. The interim manager from the Grove Facility contacted Respondent Gardner with HST for help with the overcrowding problem at the Grove Facility. Respondent Gardner represented to the interim manager that she and/or HST had the authority to assist in euthanizing dogs at the Grove Facility and subsequently scheduled the event for July 5, 2023.

14. Respondent Gardner enlisted the assistance of three (3) HST employees: Respondent DePriest, veterinary assistant; Rachel Ward, Adoption Coordinator; and Juan Garcia, Dog Handler. The event was intended to provide training, assessment, and euthanasia services for the Grove Facility.

15. Respondent Gardner reported to Investigator Veazey that she and the other HST staff were supposed to help assess the dogs to determine which dogs were adoptable and then conduct necessary euthanasia due to the shelter's severe overcrowding. Respondent Gardner reported that the employees of the Grove Facility were aware they would be euthanizing dogs and that the Interim Directors had the approval of the Board.

16. Respondent DePriest unlawfully removed the Controlled Dangerous Substances from the locked CDS storage cabinet located at HST and unlawfully transported the CDS to the Grove Facility in the mobile drug box in order to assist in the event planned by Respondent Gardner.

17. Both Respondents had knowledge of the laws related to the storage and lawful use of CDS and the laws related to euthanasia of animals in an animal shelter.

18. Witness statements and surveillance video footage reveal that Respondent Gardner, Respondent DePriest, Rachel Ward and Juan Garcia arrived at the Grove Facility on July 5, 2023, with the mobile drug box containing the drugs used to euthanize the eleven (11) dogs previously noted.

19. While at the Grove Facility Respondent Gardner was involved in assessing the animals and directing the overall operations of the event. Respondent Gardner maintained the list of dogs and was directing which dogs were to be euthanized and which were to be transferred.

20. No licensed veterinarian, or certified animal euthanasia technician was on sight directing the administration of CDS, the manner in which the dogs were euthanized or the confirmation of death.

21. The medical records for the euthanized dogs provide that the dogs were either injected with Telazol or DKT and Euthasol, which are Schedule III and IV CDS.

22. Dr. Gatlin reported that she did not authorize the use of the CDS from the locked storage cabinet and was unaware of the event until three days after the event occurred.

23. On Monday July 10, 2023, Dr. Gatlin sent an email to Director Kirkpatrick

asking if a veterinary technician ("RVT") or a non RVT can vaccinate or euthanize if directed by a veterinarian that is not on the premises. Dr. Gatlin referenced OAC 775:25-1-4 in her email.

24. Director Kirkpatrick responded by stating under specific circumstances an RVT can vaccinate and euthanize if directed on the order of the licensed veterinarian. Director Kirkpatrick also provided that a veterinary assistant does not have this authority.

25. Dr. Gatlin then contacted the Board to report the diversion of CDS from the HST locked drug box.

26. Investigator Veazey received a copy of the surveillance video on July 20th. The video contained three (3) camera locations: the main office, outside the entrance side door, and the dog runs where some of the dogs were injected with sedation drugs. Investigator Veazey reported that only three (3) injections of sedation drugs were captured on video. The other injections of sedation drugs and the euthanasia drug injections were not on video.

27. Investigator Veazey reported that the following were observed on the surveillance video:

a. a mobile CDS drug box with drugs and syringes,

b. Respondent DePriest and Rachel Ward carrying the mobile CDS drug box,

c. Respondent Gardner walking around with a list and directing the operation,

d. Respondent DePriest filling syringes from bottles in the mobile CDS drug box and carrying multiple syringes in his pocket,

e. Respondent DePriest administering sedation drugs to 3 dogs, and

f. the unattended CDS drug box in the main office.

28. Because the surveillance video is limited by the location of the cameras, Investigator Veazey was unable to confirm witness allegations as to the following:

a. dogs that were still alive after being placed in plastic bags,

b. abuse, cruelty, or inhumane treatment of dogs,

c. manner and location of injection of Euthasol,

d. manner of injection of sedation drugs in 8 dogs, and

e. Respondent Gardner injecting dogs.

29. During the event, 11 dogs were unlawfully euthanized by Respondent DePriest at the direction of Respondent Gardner. Neither Respondent was acting under the direction of a licensed veterinarian or CAET or while a licensed veterinarian or CAET was present at the Grove Facility and supervising their actions. Further, the administration of the CDS was neither directed nor supervised by a licensed veterinarian or licensed CAET.

30. The unlawful euthanasia was facilitated by unlawfully removing CDS from the locked storage cabinet located at HST and unlawfully transporting the CDS to the Grove Facility in violation of the Act and 63 O.S. § 2-402.

31. The CDS were then unlawfully administered at the Grove Facility in violation of the Act and 4 O.S. § 502.

32. Respondent Gardner unlawfully practiced veterinary medicine and violated the Act by planning the event without enlisting the services of Dr. Gatlin or other licensed veterinarian knowing that euthanasia was involved and representing that she and the HST

employees had the authority to euthanize the dogs during the event. Respondent Gardner further violated the provisions of the Act by aiding and abetting the unlicensed practice of veterinary medicine by enlisting the services of Respondent DePriest knowing that he was neither a CAET nor licensed veterinarian.

33. Respondent DePriest unlawfully practiced veterinary medicine by administering euthanasia drugs without direction and supervision of a licensed veterinarian or CAET.

VIOLATIONS OF THE ACT AND RULES OF THE BOARD

The actions of the Respondents violated the following provisions of the Act and Rules of the Board in relevant part:

59 O.S. § 698.7(10)

> The State Board of Veterinary Medical Examiners shall have the powers and it shall also be its duty to regulate the practice of veterinary medicine. In addition to any other powers placed on it by the Oklahoma Veterinary Practice Act or as otherwise provided by law, the Board shall have the power and duty to:
>
> 10. Act to halt the unlicensed or illegal practice of veterinary medicine and seek administrative, criminal and civil penalties against those engaged in such practice.

59 O.S. § 698.8 Licenses - Fees - Active Military Waiver

> A. It shall be unlawful to practice veterinary medicine in this state without a license or certificate issued by the State Board of Veterinary Medical Examiners.

59 O.S. § 698.11 Practice Defined

> A. The practice of veterinary medicine shall include, but not be limited to:
>
> 1. Diagnosing, surgery, treating, correcting, changing, relieving, or preventing animal disease, deformity, defect, injury or other physical or mental conditions including the **prescribing or administering of any drug,** medicine, biologic, apparatus, application, anesthetic, telemedicine, animal chiropractic diagnosis and treatment, or other therapeutic diagnostic substance or technique; dentistry; complementary

and alternative therapies to be defined by rule pursuant to Section 698.7 of Title 59 of the Oklahoma Statutes; testing for pregnancy or correcting sterility or enhancing fertility; **or rendering advice or recommendation with regard to any of the above;**

2. Representing, directly or indirectly, publicly or privately, an ability and willingness to do any act prescribed in paragraph 1 of this subsection.

59 O.S. § 698.14a Disciplinary Actions Available to State Board of Veterinary Medical Examiners

A. A range of sanctions is hereby made available to the State Board of Veterinary Medical Examiners which includes, but is not limited to:

7. Administrative citation and administrative penalties; and

B. 1. The Board may take such action as the nature of the violation requires.

2. Upon a determination that a violation has been committed, the Board shall, by clear and convincing evidence, have the authority to impose upon the alleged violator, the payment of costs expended by the Board in investigating and prosecuting the cause, to include, but not be limited to, staff time, salary and travel expenses, witness fees and attorney fees and same shall be considered part of the order of the Board.

F. 1. The Board may commence any legal action to enforce the provision of the Oklahoma Veterinary Practice Act and may exercise full discretion and authority with respect to enforcement actions. Administrative sanctions taken by the Board shall be made in accordance with Article II of the Administrative Procedures Act, the Oklahoma Veterinary Practice Act, and other applicable laws of this state. The Board shall take appropriate enforcement action when required, assuring fairness and due process to the defendant.

H. 1. The Board may issue an order to any licensee or certificate holder, obtain an injunction or take other **administrative**, civil or criminal **court action against any person** or any corporation or association, **its officers, or directors, to restrain said persons from violating the provisions of the Oklahoma Veterinary Practice Act.**

Q. 1. In addition to other penalties prescribed by the Oklahoma Veterinary Practice Act, any person who the Board has determined by clear and convincing evidence to have violated any provisions of the Oklahoma Veterinary Practice Act, or any rule or order issued pursuant thereto shall be liable for an administrative penalty of not more than Five Thousand Dollars ($5,000.00) for each day that the violation continues.

59 O.S. § 698.18 Penalties

A. It shall be unlawful for any person to practice or attempt to practice veterinary medicine without a current license or certificate issued pursuant to the Oklahoma Veterinary Practice Act, or to knowingly aid or abet another person in the unlicensed practice or attempted practice of veterinary medicine in this state.

4 O.S. § 502 Administration of Denatured Sodium Pentobarbital

A. Denatured sodium pentobarbital shall be administered by any one of the following methods:

1. Intravenous or intracardial injection of a lethal dose in dogs and cats. Intracardiac injection is acceptable only when performed on heavily sedated, anesthetized, or comatose animals;

3. Intraperitoneal or intracardial injection in cats, kittens and puppies when location of and injection into the vein is difficult or impossible. Intracardiac injection is acceptable only when performed on heavily sedated, anesthetized, or comatose animals.

B. Denatured sodium pentobarbital shall be administered under the following conditions:

2. Administration shall be by a licensed veterinarian or by a person trained for this purpose and approved and supervised by a licensed veterinarian, or a person certified as an animal euthanasia technician by the Oklahoma State Board of Veterinary Medical Examiners or an animal control officer registered by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control as provided in subsection D of this section.

OAC 775:10-8-16 Standards for euthanasia of animals in the custody of a law enforcement agency, animal control agency or animal shelter.

In accordance with Sections 501 et seq. of Title 4 of the Oklahoma Statues, the **euthanasia of animals held by or in the custody of a law enforcement agency, animal control agency or animal shelter shall comply with the standards set forth in this chapter.**

(1) Euthanasia of animals shall be performed by one of the following methods:

(A) administration of denatured sodium pentobarbital;

(2) The method of euthanasia shall be as painless as possible to the animal as determined by the best available medical and scientific knowledge and technology.

(3) The animal shall be kept as free from anxiety and fear as possible.

(4) Death shall be confirmed by the cessation of all vital signs.

(5) Denatured sodium pentobarbital approved for euthanasia of animals by the

Board **shall be administered only by a licensed veterinarian, a certified animal euthanasia technician, or a person trained for this purpose and under the direct supervision of a licensed veterinarian.**

63 O.S. § 2-402 Prohibited Acts

A. 1. It shall be unlawful for any person knowingly or intentionally to possess a controlled dangerous substance unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting in the course of his or her professional practice, or except as otherwise authorized by this act.

AUTHORITY OF THE BOARD

Pursuant to 59 O.S. § 698.3(B), the legislature has delegated to the Board the duty of proceeding against the unlawful practice of veterinary medicine and of enforcing the Oklahoma Veterinary Practice Act ("Act"). Also, pursuant to 59 O.S. § 698.14a(F), the Board has the authority to commence any legal action to enforce the provisions of the Act. Furthermore, pursuant to 59 O.S. § 698.14a(H), the Board has the authority to take administrative action against a person or corporation or any of its officers or directors to restrain further violations of the provisions of the Act. Additionally, pursuant to 59 O.S. § 689.14a(Q), the Board has the authority to penalize any person for a violation of the Act and issue an administrative penalty of not more than Five Thousand Dollars ($5,000.00) for each day that the violation continues. Moreover, OAC 317:15-15-1 permits the Board to assess the costs of the investigation and prosecution of the administrative action.

Pursuant to 59 O.S. § 698.14a(A)(7), the Board may issue administrative citations and administrative penalties for violations of the Act.

Accordingly, the undersigned issues this Complaint on behalf of the Board this 30th day of October 2023.

Sandra G. LaVenue OBA #13372
Assistant Attorney General
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Oklahoma City, OK 73105
(405) 522-2887
Fax: (405) 522-4536

ATTORNEY FOR THE OKLAHOMA STATE BOARD OF VETERINARY MEDICAL EXAMINERS

STATE OF OKLAHOMA)
) ss
COUNTY OF OKLAHOMA)

SUBSCRIBED AND SWORN to before me on this 30th day of October 2023.

NOTARY PUBLIC

My Commission Expires:
2-1-2026

CATHY KIRKPATRICK NOTARY PUBLIC # 02000882 EXP. 02/01/26 STATE OF OKLAHOMA