

ROYAL COLLEGE OF VETERINARY SURGEONS

V

MS ELERI WYN JONES MRCVS

FINDINGS

1. Ms Jones appears before the Committee to answer the charge:

“That being registered in the Register of Veterinary Surgeons and while in practice at The Veterinary Practice, Bala Road, Dolgellau, Gwynedd, LL40 2YF:-

(A) On an unknown date between 31 August 2007 and 2 March 2008 she signed the passport of “Aberhosan Bobby” a gelding belonging to Ms S Tronet, recklessly certifying that on 31 August 2007 “Aberhosan Bobby” had undergone a vaccination for Equine Influenza by administration of Duvaxyn under batch number RP-05600 where the circumstances of the vaccination of “Aberhosan Bobby” were not within her own personal knowledge, or the subject of a supporting certificate from another veterinarian;

and /or

(B) On an unknown date between 31 August 2007 and 2 March 2008 she signed the passport of “Aberhosan Bobby” a gelding belonging to Ms S Tronet, recklessly certifying that on 30 September 2007 “Aberhosan Bobby” had undergone a vaccination for Equine Influenza by administration of Duvaxyn under batch number RP-05600 where the circumstances of the vaccination of “Aberhosan Bobby” were not within her own personal knowledge, or the subject of a supporting certificate from another veterinarian;

AND THAT in relation to the facts alleged she has been guilty of disgraceful conduct in a professional respect.”

2. The Committee has given detailed consideration to all the evidence in this case, the submissions of Counsel, and the advice of the Legal Assessor. It has applied the law on the burden and standard of proof, namely that the burden of proof is on the College and that the standard of proof required is that it has to be sure before it finds any allegation of fact contained in the charges proven. The Committee has exercised its judgment in deciding whether the facts admitted, or found proved, amount to disgraceful conduct in a professional respect.

3. Ms Jones graduated from Liverpool University with distinction and qualified as a veterinary surgeon in 2006. She has been employed as an assistant veterinary surgeon from the date of her qualification at The Veterinary Practice, Bala Road, Dolgellau, Gwynedd. She was 25 years old at the time of the certification of the vaccinations against equine influenza in 2007. There were significant changes in the structure and personnel of the practice after Ms Jones joined it in July 2006. The principal of the practice is now Mr Parry who was previously a partner in Tudor Lawson Dallimore & Parry. At the time of the certification by Ms Jones in 2007 he employed six veterinary surgeons, three of whom had qualified in 2006, two unqualified nursing staff and four administrative staff. The practice is a mixed large and small animal rural practice. Ms Jones was largely, but not exclusively, responsible for equine clients in the practice.
4. Mr Parry was the subject of a hearing before the Committee in early 2009 relating to certification on which four members of this Committee sat. Although, the membership of this Committee was disclosed in advance to the College and Ms Jones's legal team, and the Legal Assessor raised it again at the outset of the hearing, no objection has been taken by the College or the Respondent to its membership. The Committee has accepted the advice given by the Legal Assessor that it should decide this case solely on the evidence it has heard during the course of this hearing and that the four members who heard the case against Mr Parry should put out of their minds any evidence that they heard at the previous hearing.
5. Although, the heads of charge allege that Ms Jones recklessly certified on an unknown date between 31 August 2007 and 23 February 2008 (later amended to 2 March 2008) that Ms Tronet's horse had been vaccinated against equine influenza, the College's opening was on the basis that its primary case was that Ms Jones certified in the passport that the horse had been vaccinated against equine influenza when Mrs Williams attended the practice premises on 31 August 2007, before either of the first two vaccinations had been administered. The first vaccination took place later in the day on 31 August and the second vaccination, if it took place at all, on 30 September 2007. Alternatively, the College alleges that Ms Jones completed the section in the passport at some later unknown date. In either case it alleges that Ms Jones acted recklessly.
6. Ms Jones admits that she certified that the horse had been vaccinated on the 31 August and 30 September 2007 against equine influenza. She denies that she certified the vaccinations on 31 August 2007 when Mrs Williams attended the practice premises. She is unable to recollect when she made the certification but believes that it had to be after 30 September 2007 because she would not have certified vaccinations before they had taken place. Ms Jones accepts that she certified the vaccinations in circumstances where she had not done so herself and had been asked to do so by one of the practice's administrative staff without checking that the horse had been vaccinated. She denies that she acted recklessly in so doing.
7. The Committee has considered the provisions of the Guide to Professional Conduct (2006 edition) to which it has been referred, and The Twelve Principles of

- '1. A veterinarian should be asked to certify only those matters which are within his own knowledge, can be ascertained by him personally or are the subject of a supporting certificate from another veterinarian who does have personal knowledge of the matters in question and is authorised to provide such a document. Matters not within the knowledge of a veterinarian and not the subject of such a supporting certificate but known to other persons e.g. the farmer, the breeder or the truck driver, should be the subject of a declaration by those persons only.*
- 2. Neither a veterinarian nor any person described in 1 above should be requested or required to sign anything relating to matters which cannot be verified by a signatory.'*
8. The Committee has carefully considered the oral evidence before it. The College called Ms Tronet, the owner, Mrs Sarah Williams, the livery stables owner, and Mr Hugh Williams, veterinary surgeon. Ms Jones gave evidence. After legal argument as to the admissibility of parts of his report, Professor Greet was called to give expert evidence on the prevailing practice with horse certification. The Committee has also carefully considered the documentation and correspondence with the College.
9. The evidence was that Ms Tronet purchased a Welsh Cob horse, Bobby, at a sale on 31 August 2007. She was accompanied by a friend, Mrs Sarah Williams, who also operated a livery stable on the farm she owned with her husband. Ms Tronet had not expected to buy a horse at the auction and it was agreed that the seller should take the horse to Mrs Williams' livery stables. The seller had provided a passport for the horse which Ms Tronet took with her after the sale. Mrs Williams and Ms Tronet visited the veterinary practice of Tudor Lawson Dallimore & Parry nearby after the sale to make arrangements for the vaccination of the horse against equine influenza and tetanus.
10. There is an issue between Ms Tronet and Mrs Williams as to who precisely went into the veterinary premises, whether it was Mrs Williams on her own, or whether she was accompanied by Ms Tronet. Ms Tronet believes that she stayed in the vehicle with Mrs Williams' children. According to Mrs Williams she requested two, or possibly three, vials of vaccine from the reception for her to administer to the horse at the livery stables. Ms Tronet had indicated to Mrs Williams that she did not wish to do so herself. Apparently, the reception at the practice was familiar with the dispensing of vaccinations to Mrs Williams for administration by her, at least, to her own horses. There is an issue as to whether the passport was taken into the practice reception and certified by Ms Jones. Mrs Williams, and Ms Tronet to a lesser degree, believe that the passport was taken into the premises. Ms Tronet believes that the section in the passport may have been completed when Mrs Williams came out of the practice premises. Mrs Williams' evidence was that Ms Jones was not present and did not certify the vaccinations.

11. Following their return to the livery stables, Mrs Williams injected Bobby with the vaccine and gave the passport to Ms Tronet to enable her to register the change of ownership of the horse with the Welsh Pony and Cob Society. Mrs Williams says that she gave the second injection on 30 September 2007. She says that she kept a record of the dates and two peel-off labels, which contain details of the batch number of the vaccines. Ms Tronet retained the passport until she sent it with an application form for membership to the Society on or about 25 September 2007. Unfortunately, there was insufficient postage and the letter containing the passport was probably not received until about 23 October 2007. The passport was returned to Ms Tronet by about 6 November 2007 who believes that she retained it until the Winter Fair on 27 November 2007 when she gave it to Mrs Williams for safe-keeping in accordance with the terms of the livery agreement. Mrs Williams raised an invoice sometime after 30 November 2007, which amongst other costs charged her for three vaccinations against equine influenza.
12. Ms Tronet removed her horse from Mrs Williams' livery stables on 23 February 2008 after differences between them. Mrs Williams put the passport in an envelope on which she wrote that a booster was required in March 2008. On 2 March 2008 she saw Ms Tronet and gave her the passport and a vial containing the vaccine for the booster vaccination which she had kept in her fridge. It has been produced at this hearing and contains the same batch number as the two peel-off labels in the passport. Mrs Williams wrote the details of the booster vaccination, including the batch number, into the passport and signed it in her name in the box marked for the veterinary surgeon.
13. Mr Hugh Williams, a veterinary surgeon, and partner in a neighbouring practice had attended Mrs Williams' livery stables on 11 October 2007 where he had a discussion with Ms Tronet leading to him inspecting her horse. Mr Williams recalls, although Ms Tronet has no memory of that part of the conversation that they also discussed the fact that the horse had been vaccinated by Mrs Williams without it being registered with a veterinary surgeon. He wrote to the College on 30 October 2007 raising his concerns about this matter but was informed that there was insufficient evidence to take the complaint further. He again saw Ms Tronet on 24 April 2008 when, at her instruction, he gelded the horse. She asked him to give the booster vaccination which he agreed to do with his own vaccine. On this occasion he saw the horse's passport. He was not prepared to use the vial that Ms Tronet had been given by Mrs Williams. He wrote a further letter to the College on 30 May 2008 and prepared a formal complaint which led to these proceedings.
14. Ms Jones gave evidence about the way in which Mr Parry operates his practice. She has had little or no mentoring after Mr Dallimore retired from the practice in October 2006. She avoids talking to Mr Parry because she considers that he is unapproachable. She was unaware that the administrative staff at the reception dispensed vaccines to Mrs Williams, or indeed, anybody else for the vaccination of horses by persons other than veterinary surgeons before these matters came to light. She accepts that she regularly visited Mrs Williams' livery stables but did not treat Ms Tronet's horse on any occasion.

15. She is adamant that on 31 August 2007 she did not certify that Ms Tronet's horse had been vaccinated against equine influenza. The records that she has produced show that she had attended a heifer that morning, telephoning the surgery at 12.45 to say that she was returning to the practice premises. She believes that she returned to the premises about 40 minutes later. She was then telephoned by the farmer whose heifer she had visited that morning and told her that the heifer had died. She went out to lunch. She believes, in the absence of evidence of any other appointments in the diary that she probably assisted with small animals during the remainder of the working day. She has no recollection of seeing Mrs Williams in the reception or being asked to certify that Ms Tronet's horse had been vaccinated against equine influenza. She is clear that she would not have been prepared to certify in advance that the horse had been vaccinated.
16. Ms Jones accepts that she certified in the passport that Ms Tronet's horse had been vaccinated and that the handwritten section in the first two boxes is in her handwriting. She is unable to say when she certified the vaccinations. She recalls that she was handed the passport by a member of the administrative staff in the reception area one morning as she was leaving the premises for a busy day's list of calls. In cross-examination she admitted that she gave the certification little or no thought. To the extent to which she considered it at all, she assumed that the vaccination had been carried out by another veterinary surgeon at the practice. She was aware that she had not carried out the vaccinations herself and she made no enquiries to ascertain who had carried out the vaccinations.
17. Professor Greet gave expert evidence that post-event certification of vaccination of horses is common practice, particularly in large equine practices where several hundred horses can be vaccinated in a single day. He is aware of post-event certification in smaller practices from his position as partner in a referral practice. However, he emphasised the importance of using different sources to cross-check that the vaccination of a horse had taken place, in his own experience, from the use of lists of horses provided by the owner and the use of a tape-recorded account of the process whilst the vaccinations are being undertaken. He also said that the presence of the peel-off strips from the vials of vaccine would have given comfort to Ms Jones that the vaccinations had been carried out by a veterinary surgeon. In a candid exchange in questions from the Committee, he accepted that there was probably a failure amongst some equine veterinary surgeons to comply with the strict terms of The Twelve Principles of Certification.
18. In reaching its findings the Committee has concluded that Ms Tronet was vague in her evidence about the main issues in the case but accepts her evidence where it is supported by other sources. Unfortunately, the Committee found that the evidence given by Mrs Williams was unsatisfactory and, in places, contradictory. It has formed the impression that her account of the events in this case lacked credibility. It accepts her evidence where it too is supported by other sources. Overall the Committee accepts the factual account given by Ms Jones of the chronology of events that took place and are satisfied that she is an honest and truthful witness. However, there are issues as to Ms Jones's state of mind at the time at which she certified the vaccinations to which the Committee will return later in these findings.

19. Having heard the evidence, the Committee has concluded that Ms Tronet remained in the vehicle with Mrs Williams' children whilst Mrs Williams went into the practice premises after the sale and that she collected two, or less likely three, vials of the vaccine from the practice. It accepts that probably Mrs Williams did take the passport in to the reception. If Mrs Williams did collect three as opposed to two vials, the third vial that has been produced has the same batch numbers as the first two vials. There is no record of the practice invoicing Mrs Williams for either two or three vials but the practice has confirmed that a batch of ten doses with the same numbers was delivered in June 2007. The Committee is not satisfied a second vaccination was administered by Mrs Williams on 30 September 2007. If it was not, the vial which was given to Ms Tronet on 2 March 2008 was probably the second vial that Mrs Williams obtained on 31 August 2007.
20. It accepts Ms Jones's evidence that she did not certify the vaccinations on 31 August 2007. To do so she would have had to have completed the section on the certificate on which the peel-off stickers would have had to have been inserted for two vaccinations that had not yet taken place, namely later on 31 August and 30 September 2007. It accepts her evidence that she would not have certified vaccinations that had not taken place. It also accepts that when she certified the vaccinations she was handed the passport to which a piece of paper was attached with a paper clip by a member of the administrative staff from which she obtained details. On this aspect of the case the Committee accepts Mrs Williams' evidence that it was her practice to write the details on a piece of paper which she clipped to the passport. This leads the Committee to the conclusion that certification took place at some later date. It rejects Mrs Williams' evidence that Ms Tronet attended the practice with the passport for certification.
21. It also accepts Ms Tronet's evidence that she retained the passport until she sent off her application to the Welsh Pony and Cob Society in late September and that she did not receive the passport back from the Society until 6 November 2007. Although, Ms Tronet believes that she saw Ms Jones's signatures in the passport at that time, the Committee is not satisfied that this was the case and that her evidence is mistaken on this issue. The Committee believes that at the time Ms Tronet gave the passport to Mrs Williams around the time of the Winter Fair that section contained no entries. It has concluded that Mrs Williams subsequently took the passport into the practice premises, as described by Ms Jones, with a piece of paper attached with the peel-off stickers in the passport for it to be signed by a veterinary surgeon.
22. The Committee accepts Ms Jones's account that on an unknown date, in its view, probably around the Winter Fair on 27 November 2007, she was asked by a member of the administrative staff in the reception to certify the vaccinations in the passport as she was leaving the premises one morning. It also accepts her evidence that she was unaware of the practice of dispensing vaccines to Mrs Williams for administration by her, at least, to her own horses. Ms Jones admits that she did not obtain any further information regarding the certification from either the clinical or administrative staff or from the computer, or any other documentation or records, at the practice premises. Ms Jones has given evidence that she does not remember what was going through her head at the time and assumed that the vaccinations had

23. The difficult issue which the Committee has to decide is whether Ms Jones acted recklessly. The issue has been subject to legal argument as to the test which should be applied. The Committee has accepted the advice of the Legal Assessor that it has to consider the issue in two parts. First, it has to consider whether at the time that Ms Jones signed the passport, she knew that the vaccinations had not been given by a veterinary surgeon on 31 August 2007 and/or 30 September 2007, and yet she proceeded to sign the passport in any event. If it is satisfied that she did know, then recklessness has been made out. Second, if it is not satisfied that she knew, it should go on to consider, whether she was wholly indifferent to whether or not the vaccinations had been given by a veterinary surgeon on 31 August 2007 and/or 30 September 2007, not caring whether they had been or not, and yet proceeded to sign the passport in any event. If it is satisfied that she was wholly indifferent, then, in those circumstances recklessness has been made out.
24. Having considered carefully Ms Jones's evidence the Committee is satisfied that the first part of the test for recklessness has not been made out. It has concluded that at the time she certified the vaccinations she did not know that the horse had not been vaccinated by a veterinary surgeon. In those circumstances, the Committee has gone onto consider the second part, namely whether at the time Ms Jones certified the vaccinations she was wholly indifferent to whether the vaccines had been given by a veterinary surgeon.
25. The Committee is satisfied that at the time Ms Jones certified the vaccinations she was wholly indifferent as to whether the horse had been vaccinated by a veterinary surgeon on either or both occasions. In considering whether she was wholly indifferent, the Committee has applied the test put forward by Counsel on behalf of Ms Jones that her state of mind was such that she did not care whether the vaccinations had been given or not. To use the words of Counsel for Ms Jones in submissions as to the appropriate test to be adopted it has to be satisfied that "she did not care less".
26. In reaching its conclusion on Ms Jones's state of mind, the Committee considers the following factors are of relevance. She had graduated from veterinary school in 2006 where she had attended lectures on professional conduct issues including certification. She was familiar, at least on her own evidence in general terms, with the Guide to Professional Conduct, including the section on certification. Albeit, that she received little or no mentoring after the departure of Mr Dallimore from the practice in October 2006 it is satisfied that she would have been aware of the importance of certification, particularly in circumstances where that certificate is relied upon by other bodies. The vaccination record of a horse is for life, if it is incorrect, the course of vaccinations has to be started again. More importantly, she was an authorised Local Veterinary Inspector ("LVI") who had attended a two part training session, the first of which had included lectures on the importance to be attached to certification. She was also aware that Mr Parry had been suspended as an LVI which had affected her own authorisation. It is satisfied that she would have

27. The Committee has concluded that given that knowledge, Ms Jones's decision to certify the vaccinations and complete the sections in the passport was reckless applying the test set out above. Her own evidence is that the process took only 30 seconds. She is unable to recollect what was going through her head at the time. For whatever reason she made a fateful misjudgement in taking the decision to certify the vaccinations which, the Committee is satisfied, in the ordinary course of her practice she would not have done. It does not accept her evidence on this issue that she made the assumption that the vaccinations had been carried out by another veterinary surgeon in the practice, or indeed, any assumption as to who had carried out the vaccinations. It would have been open to Ms Jones to have refused to certify the vaccinations, or at the very least, to have put it back to later in the day, and then, to have sought to verify that the vaccinations had been carried out by another veterinary surgeon in the practice. On her evidence post-event certification at the practice was not a regular occurrence. She did none of those things. It does not consider that Professor Greet's evidence that post-event certification is widespread amongst equine veterinary surgeons assists Ms Jones's case. As set out in his evidence he emphasised the importance of using a number of sources to cross-check that the vaccination had taken place. In Ms Jones's case no attempt was made to obtain verification from any other source where she knew that she had not carried out the vaccinations herself.

28. For the reasons set out above the Committee is satisfied that each of the heads of charge (a) and (b) has been proved. The importance of accurate certification by veterinary surgeons is clearly set out in the section on certification in the Guide to Professional Conduct (6th edition) , in particular the strong advice given that:

***“CAUTION.** Before signing any certificate veterinary surgeons must:
i scrutinise the document whatever its title,
ii be clear as to whom they are responsible in exercising their
authority when they sign the document.”*

It has already said above that certification, particularly in circumstances where it is relied upon by other bodies, is of considerable importance. The Committee is satisfied, as a matter of judgment, the effect of the finding that Ms Jones acted recklessly in (a) to (b) of the heads of charge amounts to disgraceful conduct in a professional respect.

**DISCIPLINARY COMMITTEE
18 JUNE 2009**