

License for Horse Dentistry Not Required, Panel Finds

By Noeleen G. Walder

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Faced with a "simple question that lends itself to a less than simple answer," an appeals panel has ruled that a state license is not needed to work on a horse's teeth.

In a unanimous decision, the Appellate Court, Second Department, held that Chris Brown was not "diagnosing" or "treating" horses and, consequently did not violate §§6701 and 6702 of the Education Law by performing routine equine dentistry and maintenance on thoroughbred race horses without a veterinary technician license.

In enacting the statute, the Legislature "makes no inclusion of dentistry or the treatment of dental conditions in its definition of veterinary medicine. Had the Legislature intended to include animal dentistry within the scope of veterinary medicine, it could have expressly done so, as have other states," Justice Mark C. Dillon ([See Profile](#)) wrote for the panel in [*Matter of Chris Brown v. New York State Racing and Wagering Board*](#), 7303.

The Second Department decision will be published **Friday**.

In December 2005, after more than 30 years of working on thoroughbred race horses, Mr. Brown was ordered to take part in an investigative interview conducted by the New York State Racing and Wagering Board.

The board subsequently advised Mr. Brown, who has a certificate in equine management and dentistry and until March 2006 had a "veterinary assistant" license issued by the New York Racing Association Inc., that he needed a veterinary technician license from the New York State Education Department.

In July 2006, Mr. Brown brought an Article 78 proceeding to enjoin the board and education department from prohibiting him from practicing equine dentistry.

Following a hearing in Nassau County, Supreme Court Justice Roy S. Mahon ([See Profile](#)) held that the dental services performed by Mr. Brown, which included filing and smoothing horses' teeth, removing baby teeth, and applying baking soda and other non-medical solutions to cuts, did not "involve matters of judgment reserved exclusively for licensed veterinarians, but rather address themselves to ordinary and standard care necessary for the good health and well-being of the horse."

According to deposition testimony, horse teeth, which never stop growing, require periodic trimming. Routine equine dentistry also facilitates the digestion of oats and allows horses to clamp down on their bits during races.

On appeal, the racing and wagering board and the education department argued that Mr. Brown was actually "diagnosing" or "treating" horses, which requires a veterinary license under the Education Law.

The Second Department, however, agreed with Justice Mahon that adopting the state's construction of the statute would "blur the distinction between licensed veterinary care and responsible equine health care and maintenance."

Education Law §6701's use of the "key words" diagnosing and treating, which are not defined by the Legislature, is unambiguous and "subject to pure legal interpretation," Justice Dillon wrote.

"There being no ambiguity in the operative statutory terms, we must necessarily deem the pertinent provisions of the Education Law as subject to pure legal interpretation and give effect to their plain meaning," he added.

Mr. Brown, who performed tasks similar to the "level of routine care and maintenance provided by groomers, trainers, and blacksmiths" did not violate Education Law §§6701 and 6702, which do not include dentistry or the treatment of dental conditions in the definition of veterinary medicine, the judge wrote.

"While the Legislature is free to amend Education Law §6701 and 6702 in the future to expressly include animal dentistry within its scope," Justice Dillon concluded that "under the current law, Brown is not required to possess a license in veterinary medicine or veterinary technology in order to provide routine equine dentistry and maintenance."

Justices Reinaldo E. Rivera ([See Profile](#)), Joseph Covello ([See Profile](#)), and Daniel D. Angiolillo ([See Profile](#)) joined the panel.

Michael Aronow of Sands Point represented Mr. Brown.

Mr. Aronow said that for years the Second Department had "rubber stamped" the decisions of the

state racing board, which acted without any accountability to the thoroughbred horsemen. He called the decision a "victory for the little guy."

Michael S. Belohlavek and Laura R. Johnson handled the case for the New York Attorney's General Office.

Barbara J. Ahern of Troy handled the case for the New York State Veterinary Medical Society, which submitted an amicus brief on behalf of the state.

There were more than 75,000 horses in New York when the 2002 census of agriculture was taken.

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