

4. On January 4, 2012, Elizabeth Welch presented a one-year old female rat named "Perseus" to Respondent at TEAH for euthanasia because "Perseus" was sick, lethargic and was not willing to eat or drink.
5. Ms. Welch understood from her conversation with Respondent that he planned to euthanize "Perseus" that same day. Respondent never requested or received permission from Ms. Welch to continue treating "Perseus" rather than euthanizing her.
6. According to Respondent's records, Ms. Welch paid Respondent \$45.
7. Respondent did not euthanize "Perseus." Respondent stated to the Enforcement Committee that he unsuccessfully treated "Perseus" for pneumonia rather than euthanizing her immediately because he felt sympathy for Ms. Welch's son, who was distraught at "Perseus's" impending death.
8. Respondent's medical records for "Perseus" do not contain any information to explain why Respondent failed to euthanize "Perseus" immediately, that Respondent informed Ms. Welch that he was not going to euthanize "Perseus" immediately, what condition "Perseus" was in between January 4, 2012 and his death, what treatment Respondent gave "Perseus" between January 4, 2012 and his death, or why Respondent elected not to euthanize "Perseus."
9. On August 8, 2012, Anson Satterwhite presented his ten-year old male miniature schnauzer named "Rosco" to Respondent because "Rosco" had developed three masses: one on the abdomen under the right front leg, a second lower on the abdomen in the groin area, and a third mass on the top of the right front shoulder. Respondent examined the masses and recommended removal of two of them, the mass under the right front leg and the mass in the groin region of the abdomen. Respondent told Mr. Satterwhite that he did not recommend removing the mass on the shoulder.
10. Respondent's patient record for "Rosco" describes these three masses as "Bumps / shoulder and stomach area." The treatment recommendation in the patient record states only "per doc—recommends scheduling surgery to remove tumor." The records do not describe the three separate masses that Respondent examined and diagnosed.
11. On August 13, 2012, Mr. Satterwhite presented "Rosco" to Respondent again, this time for removal of two of the tumors, the one on "Rosco's" abdomen under his right front leg, and the mass lower on the abdomen in the groin area. To avoid any confusion, Respondent's staff had Mr. Satterwhite draw on a diagram which tumors he wanted removed, and Mr. Satterwhite drew on the diagram a spot on the abdomen under the right front leg, and another lower on the abdomen in the groin area. On the check-in form, Mr. Satterwhite specified that only two tumors were to be removed, and that both masses were ventral.

12. Respondent performed surgery, and attempted to remove the larger mass. Respondent determined that the mass could not be removed safely.

13. At that point, Mr. Satterwhite and Respondent discussed the surgery of "Rosco" over the phone and Mr. Satterwhite was told by Respondent that "Rosco" had suffered a noticeable seizure while under anesthesia, and that continuing with the planned surgery was contraindicated around 1:00 p.m. or 2:00 p.m.

14. At 6:20 p.m., Mr. Satterwhite arrived to pick up "Rosco." According to Mr. Satterwhite, "Rosco" was laying on a table, cold and motionless, and appeared to still be bleeding from his incisions. Respondent told Mr. Satterwhite that "Rosco" was still under anesthesia, would recover, and that it was best for Mr. Satterwhite to take "Rosco" home. Mr. Satterwhite took "Rosco" home, but "Rosco" died at 8:30 p.m. that evening.

15. Respondent's patient records for "Rosco" on August 13, 2012 do not offer any details to substantiate the surgery he performed, including an explanation of which masses he operated on, and why he chose to operate on masses not requested to be operated on by Mr. Satterwhite in Respondent's records. The patient records also do not completely record the names, dosages, concentrations and routes of administration of each drug Respondent administered to "Rosco." Furthermore, Respondent's patient records for "Rosco" do not contain any information regarding "Rosco's" recovery from anesthesia, including any information about why "Rosco" would have still appeared to be under the effects of anesthesia at 6:20 p.m., or why Respondent believed that the symptoms "Rosco" was displaying were side effects of anesthetic medications.

16. On June 28, 2010, the Board entered Agreed Orders 2009-82 and 2010-71 against Respondent. These two Orders both disciplined Respondent for separate violations of the Board's Rule requiring veterinarians to practice within the standard of care.

17. On October 18, 2011, the Board entered Agreed Order 2010-70 against Respondent for violations of four Board Rules including the prohibition against practicing without honesty, integrity, and fair dealing.

18. In case # 578CP14000501 the Board finds there was no violation.

Conclusions of Law

1. Respondent is required to comply with the provisions of the Veterinary Licensing Act, Chapter 801, Texas Occupations Code, and with the Board's Rules.

2. Based on Findings of Fact 1 through 17, Respondent violated Rule of Professional Conduct 573.22, PROFESSIONAL STANDARD OF HUMANE TREATMENT, by releasing a

patient that had either not yet sufficiently recovered from anesthesia or was suffering from uncontrolled bleeding.

3. Based on the Findings of Fact 1 through 17, Respondent has violated Rule 573.27, HONESTY, INTEGRITY AND FAIR DEALING, of the Board's Rules of Professional Conduct, by failing to euthanize "Perseus" after agreeing to euthanize and then keeping "Perseus" alive and treating her without knowledge of or permission from the client.

4. Based on Findings of Fact 1 through 17, Respondent has violated Rule 573.52, PATIENT RECORDKEEPING, of the Board's Rules of Professional Conduct, by failing to record details necessary to substantiate the treatment Respondent provided "Perseus" between January 4 to January 16, 2012 and by failing to include details necessary to substantiate or document the examination, diagnosis, and treatment provided, and surgical procedure performed; and the names, dosages, concentrations, and routes of administration of each drug prescribed, administered and/or dispensed to "Rosco" between August 8, 2012 and August 13, 2012.

5. Based on Findings of Fact 1 through 17, Respondent violated Section 801.402 (12) of the Veterinary Licensing Act, Texas Occupations Code, by removing a mass from "Rosco" without client consent despite very specific and explicit instructions from the client prior to surgery, specifying precisely which masses the client was consenting to have removed and by attempting to heal "Perseus" when Respondent was only authorized to euthanize "Perseus."

6. Based on Findings of Fact 1 through 17, Respondent violated Section 801.402 (16) of the Veterinary Licensing Act, Texas Occupations Code, by engaging in a pattern of acts that indicate consistent malpractice, negligence, or incompetence in the practice of veterinary medicine.

7. Based on Findings of Fact 1 through 17 and Conclusions of Law 1, 2, 3, and 4, Respondent has violated Section 801.402 (6) of the Veterinary Licensing Act, Texas Occupations Code, and is subject to disciplinary action by the Board:

801.402. GENERAL GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION. A person is subject to denial of a license or to disciplinary action under Section 801.401 if the person:

(6) engages in practices or conduct that violates the board's rules of professional conduct.

8. Based on Conclusions of Law 1 through 6, Respondent is subject to disciplinary action under Section 801.401 of the Veterinary Licensing Act, Texas Occupations Code:

801.401. DISCIPLINARY POWERS OF BOARD. (a) If an applicant or license holder is

subject to denial of a license or to disciplinary action under Section 801.402, the Board may: (a)

- (1) refuse to examine an applicant or to issue or renew a license;
- (2) revoke or suspend a license;
- (3) place on probation a license holder or person whose license has been suspended;
- (4) reprimand a license holder; or
- (5) impose an administrative penalty.

.... (d) In addition to other disciplinary actions authorized by this subchapter, the board may require a license holder who violates this chapter to participate in a continuing education program.

9. Based on Conclusions of Law 1 through 8, Respondent may be disciplined in the manner set out in Section 801.451, IMPOSITION OF ADMINISTRATIVE PENALTY, of the Veterinary Licensing Act, which authorizes an administrative penalty for violations of the Act and Board rules.

NOW, THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Respondent be FORMALLY REPRIMANDED.

The Board ORDERS that Respondent's license be SUSPENDED for two (2) years from the date of Board approval of this Order with all of that time period PROBATED except for ONE-WEEK when Respondent's license is actively suspended. The one week period will be consecutive days during the first six (6) months of the suspension selected by Respondent. Respondent shall in writing inform the Board of the start date of the ONE-WEEK period of active suspension within forty-five (45) days of the date of this Order.

The Board further ORDERS that Respondent pay an administrative penalty of ONE THOUSAND (1,000) DOLLARS within forty-five (45) days of the date of the approval of this Order.

In addition, the Board ORDERS that Respondent complete an additional THREE (3) hours of continuing education in recordkeeping within one year of the date of this order. Documentation of the completion of the continuing education penalty shall be received by thirty (30) days following the end of the period to receive the continuing education required for this Order. If Respondent fails to provide documentation of completion within forty-five (45) days from the end of the period to receive the continuing education, Respondent's license shall be suspended

until the continuing education penalty is completed and documentation is received by the Board.

The Board further ORDERS that:

1. Respondent shall abide by the Rules of Professional Conduct, the Texas Veterinary Licensing Act, and the laws of the State of Texas and the United States.
2. Respondent shall cooperate with the Board's attorneys, investigators, compliance officers and other employees and agents investigating Respondent's compliance with this Agreed Order.
3. Failure by Respondent to comply with the terms of this Agreed Order or with any other provisions of the Licensing Act or the Board Rules, may result in further disciplinary action.

Respondent, by signing this Agreed Order, acknowledges his understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law set forth herein, and agrees that he will satisfactorily comply with the mandates of the Agreed Order in a timely manner or be subject to appropriate disciplinary action by the Board.

Respondent, by signing this Agreed Order, waives his right to a formal hearing and any right to seek judicial review of this Agreed Order. Respondent acknowledges that he had the right to be represented by legal counsel in this matter.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

The effective date of this Agreed Order shall be the date it is adopted by the Board.

I, JIM AIRHART, D.V.M., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND BY SIGNING IT, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THAT THIS ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.



JIM AIRHART, D.V.M.

30 Jan 14

DATE

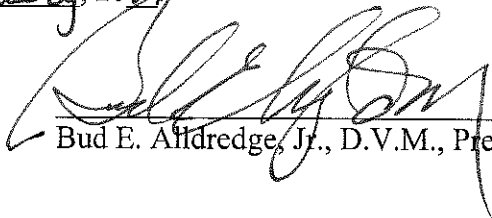
STATE OF TEXAS §
COUNTY OF _____ §

BEFORE ME, on this day, personally appeared Jim Airhart, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that he executed the same for the purposes stated therein.

Given under the hand and seal of office this _____ day of _____, 20__.

Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 18th of February, 2014



Bud E. Aldredge, Jr., D.V.M., President