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DOCKET NO. 2009-66

IN THE MATTER OF § TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS
THE LICENSE OF § VETERINARY
PATRICIA D. BALLARD, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this the ²⁶8th day of October, 2009, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Patricia D. Ballard, D.V.M. ("Respondent"). Pursuant to §801.408 of the Veterinary Licensing Act and Board Rule §575.27, an informal conference was held on June 12, 2009. Respondent appeared at the conference. The Board was represented at the conference by the Board's Enforcement Committee.

Respondent wishes to waive a formal adjudicative hearing and thereby informally dispose of the issues without a formal adjudication. Respondent agrees to comply with the terms and conditions set forth in this Order. In waiving an adjudicative hearing, Respondent acknowledges her understanding of the alleged violations and the adequacy and sufficiency of the notice provided to her. Upon the recommendation of the Enforcement Committee and with Respondent's consent, the Board makes the following Findings of Fact and Conclusions of Law and enters this Agreed Order as set forth below.

Findings of Fact

1. On March 5, 2008, Jack Wolfson of Grand Prairie, Texas, presented "Katt", a seven year-old female cat ("Katt") to Patricia Ballard, D.V.M. ("Respondent"), Alternative Veterinary Hospital, Carrollton, Texas, for lack of appetite and lethargic appearance. Respondent observed "Katt" to be lethargic, and her temperature was a subnormal 97 degrees. She indicated to Mr. Wolfson that a kidney and/or liver problem (hepatic lipidosis) was suspected. Mr. Wolfson stated that he had observed "Katt" drinking water from a dirty bowl in his backyard and also suspected poisoning. Respondent stated that she would perform blood work and call Mr. Wolfson with the results on March 5th or 6th. "Katt" was left in Respondent's care while the tests were performed. Respondent did not place "Katt" on intravenous maintenance fluids on that date.

2. Palpation and auscultation of "Katt" revealed no indications, and Respondent treated "Katt" with injections of "B12 and Vit C and a homeopathic remedy." Respondent sedated "Katt" to draw blood for the tests. On March 6th Respondent and Mr. Wolfson discussed the test results, and Respondent stated that two of "Katt's" liver enzymes were elevated, but the remainder of the results appeared satisfactory, including those related to kidney function. Respondent told Mr. Wolfson that she would contact him on the evening of March 6th to update him on "Katt's" condition. However, Mr. Wolfson did not hear from Respondent again until the morning of March 8th, wherein she called to inform him that "Katt" had expired at the clinic.

~~3. On the morning of March 7th, Respondent observed "Katt" in a lateral recumbent~~

position, unresponsive, cold and semi-comatose. Respondent placed "Katt" on heating pads to raise her temperature and force-fed her. However, she did not place "Katt" on intravenous maintenance fluids. She also failed to inform Mr. Wolfson of "Katt's" deteriorating condition on that date. On the morning of March 8th, Respondent found "Katt" dead in her cage and called Mr. Wolfson approximately two hours later with the news.

4. After he was notified of "Katt's" death on March 8th, Mr. Wolfson requested an autopsy. On March 9th, Respondent informed Mr. Wolfson that "Katt's" liver was "burgundy," rather than the "normal brown color." Respondent indicated she was sending a liver tissue sample to a lab for further analysis. On March 14th, Respondent contacted Mr. Wolfson to inform him that the lab results revealed "Katt" ingested "something toxic," without any further explanation. Mr. Wolfson requested "Katt's" medical file, and was informed they would be forwarded on March 17th. However, Mr. Wolfson did not receive the records.

5. Based Paragraphs 1-4, Respondent has violated Rule 573.22 PROFESSIONAL STANDARD OF HUMANE TREATMENT, of the Board's Rules of Professional Conduct. Specifically, Respondent failed to provide "Katt" with intravenous maintenance fluids at any time during her hospitalization. Further, she failed to communicate "Katt's" deteriorating condition to Mr. Wolfson following her observation of "Katt" in a "semi-comatose" state on the morning of March 7th, to discuss treatment and/or referral options.

6. Based on the above paragraphs, Respondent has violated §801.402 of the Veterinary Licensing Act, Occupations Code, which prohibits practices which violate Board rules of professional conduct and subjects a veterinarian to disciplinary action under §801.401.

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 1-6, Respondent has violated Rule of Professional Conduct 573.22, PROFESSIONAL STANDARD OF HUMANE TREATMENT, which requires veterinarians to exercise the same degree of humane care, skill and diligence in treating patients as is ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community in which they practice, or in similar communities.

3. Based on Finding of Fact 1-6 and Conclusions of Law 1-2, Respondent has violated §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 §801.401 if the person:

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

professional conduct.

4. Based on Conclusions of Law 1-3, Respondent is subject to disciplinary action under §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 §801.402, the Board may:

- (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.

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 INFORMALLY REPRIMANDED.

The Board further ORDERS that Respondent complete SIX (6) hours of continuing education (CE) in the field of Internal Medicine by the end of calendar year 2010. This CE may be included in the 17 hours of CE required of the licensee annually under Board Rules and the Act, and is not in addition to these hours. Documentation of the completion of the continuing education penalty shall be received by January 30, 2011, or an enforcement action will be initiated against Respondent, per the Act and Rules.

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 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 her understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law herein set forth herein, and agrees that she will satisfactorily comply with the mandates of the Agreed Order in a timely

manner or be subject to appropriate disciplinary action by the Board. The effective date of this Agreed Order shall be the date it is adopted by the Board.

Respondent, by signing this Agreed Order, waives her right to a formal hearing and any right to seek judicial review of this Agreed Order. Respondent acknowledges that she 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. NOTHING IN THIS ORDER SHALL BE DEEMED A WAIVER OF RESPONDENT'S RIGHTS UNDER STATUTE OR UNDER THE UNITED STATES OR TEXAS CONSTITUTIONS TO APPEAL AN ORDER OR ACTION OF THE BOARD SUBSEQUENT TO THIS AGREED ORDER EXCEPT AS RESPONDENT MAY HAVE OTHERWISE AGREED TO HEREIN. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

I, PATRICIA D. BALLARD, 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.

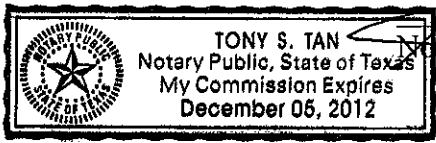
Patricia D. Ballard
Patricia D. Ballard, D.V.M.

7-7-09
Date

STATE OF TEXAS §
COUNTY OF Denton §

BEFORE ME, on this day, personally appeared, Patricia D. Ballard, 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 8th day of July, 2009.



[Signature]
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on October 8th, 2009.
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[Signature]
Bud E. Alldredge, Jr., D.V.M., President