

DEC 11 2013

DOCKET NO. 2014-31

IN THE MATTER	§	TEXAS STATE BOARD OF
OF THE LICENSE OF	§	
RACHEL BROWN, D.V.M.	§	VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this, the 18 day of February, 2014, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Rachel Brown, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code, and Board Rule 575.29, an informal conference was held on November 12, 2013. Respondent did not attend the conference and was not represented by counsel. The Board was represented at the conference by the Board's Enforcement Committee.

Respondent, without admitting the truth of the findings and conclusions set out in this Agreed Order, 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. Respondent, Rachel Brown, D.V.M. of Rochester Hills, Michigan, holds Texas veterinary license 12333.
2. The Board has jurisdiction over the subject matter and Respondent. Respondent received notice, which may be required by law and by the rules of the Board. All jurisdictional requirements have been satisfied under Tex. Occ. Code Ann. Title 4 ("Act"). By entering into this Agreed Order, Respondent waives any defect in the notice and any further right to notice and hearing under the Act; Tex. Gov't Code Ann. §§ 2001.051-.054; and the Rules of the Texas Board of Veterinary Medical Examiners ("Board Rules") (22 Tex. Admin. Code, Chapter 575).
3. On August 25, 2012, Susan Hebert of New Caney, Texas, presented her female Chihuahua, "Little Bit" for heat exhaustion to Rachel M. Brown, D.V.M. of Animal Emergency Center (the "Center") of West Houston in Houston, Texas.
4. "Little Bit" was immediately taken to the back at 3:56 p.m. Ms. Hebert explained that "Little Bit" had a history of hypoglycemia. Ms. Hebert stated she filled out the intake form and

signed an authorization of treatment within five minutes of arrival. Ms. Hebert paid \$763.08 on her credit card and approved the other items on the treatment plan. Ms. Hebert signed a Statement of Understanding, Consent and Authorization for Payment. This statement does state the signee acknowledges that "all fees are due at the time services are rendered with 100% prepayment required to begin diagnostics and/or treatments as well as for ongoing care." This statement also states that the signee "hereby authorize[s] the staff and doctors at Animal Emergency & Referral Center of West Houston (AERCWH) to hospitalize and/ or perform services including, but not limited to, administration of medications, lab tests, surgical procedures, anesthetics, radiology, pathology, and or treatments that the doctor deems necessary for the health, safety, or well-being of my pet while under his/her care and supervision or, in emergency circumstances, to follow through with procedures necessary for the well being of my pet."

5. Dr. Brown presented an initial assessment and explained diagnostic tests were necessary. Part of the diagnostic treatment plan included radiographs to determine if "Little Bit" had aspirated anything into her lungs. Ms. Hebert declined the radiographs explaining that "Little Bit" had not vomited or taken in liquids. At that time, supportive care was initiated, including oxygen supplementation, heat support, and placement of an intravenous catheter.

6. At 5:33 p.m., lab results were printed. The lab results indicated abnormalities related to dehydration and that "Little Bit" was severely hypoglycemic. At 5:35 p.m., Dr. Brown administered a dextrose bolus slowly via the catheter to help with the hypoglycemia. Dr. Brown believes that she explained that tests would be run on intervals to determine "Little Bit's" response and that "Little Bit" should be admitted for continued care with a recommendation to start intravenous fluids with dextrose supplemented. Dr. Brown stated that "Little Bit's" prognosis was 20-30% due to severe dehydration and hypoglycemia. At approximately 5:50 p.m., staff returned with another treatment plan estimate for the amount of \$9,364. Ms. Hebert stated she was not asked for her credit card again and was not asked to sign additional forms.

7. Ms. Hebert's fiancé was able to contact "Little Bit's" regular veterinarian, Clara Scott, D.V.M. Dr. Scott reviewed the treatment plan and stated that rehydration and heat support were the appropriate treatments for dehydration. Dr. Scott then called Dr. Brown to discuss "Little Bit's" response to treatment, at approximately 6:36 p.m. Dr. Scott learned that treatment for dehydration had not been started. Dr. Brown told Dr. Scott that she was waiting for the authorization for treatment to be signed. Dr. Scott spoke with Ms. Hebert's fiancé who became very upset and told her the form had already been signed. Ms. Hebert was under the belief that treatment for dehydration had already been started upon intake not 2 hours later. Dr. Brown stated that it is office protocol to split the treatment plan in two and show the diagnostic portion first. Ms. Hebert attempted to discuss the matter with the Center's medical director but was unable to as the director was not available until Monday morning. Ms. Hebert's fiancé discussed transferring "Little Bit" to another hospital. Discussions continued regarding approval of the treatment estimate.

8. "Little Bit" died at approximately 7:42 p.m. Another veterinarian attempted to do CPR. Dr. Brown stated that since the cost of the CPR had not been discussed at the time Ms. Hebert approved the CPR, Ms. Hebert was not charged the \$1,000 CPR fee.

9. Dr. Scott provided an opinion that if heat stroke was of primary concern, then treatment for dehydration along with other treatment options should have been started immediately upon arrival at the emergency facility. Dr. Scott stated that only those that were there know if this was true heat stroke or some other underlying illness. The patient records do indicate that heat exhaustion was a primary concern.

10. Susan Thomas, DVM of Cypresswood Animal Clinic in Spring, Texas provided an opinion to Ms. Hebert, stating that treatment for acute dehydration in dogs includes administering fluids as soon as possible. Dr. Thomas stated that dogs suffering from severe dehydration should receive immediate treatment. Dr. Thomas stated that once the dog is stabilized, underlying causes can be treated. Dr. Thomas was of the opinion that failure to provide immediate fluids is not the standard of care in an emergency situation.

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 10, Respondent has violated Board Rule 573.22 PROFESSIONAL STANDARD OF HUMANE TREATMENT, by failing to administer intravenous fluids immediately when an animal presented with signs of acute dehydration.

3. Based on Findings of Fact 1 through 10 and Conclusions of Law 1 and 2, Respondent has violated Section 801.402 (6) of the Veterinary Licensing Act, Texas Occupations Code, by violating the Board's Rules of Professional Conduct 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.

4. Based on Conclusions of Law 1 through 3, 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:

- (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

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 receive a FORMAL REPRIMAND.

In addition, the Board ORDERS that Rachel Brown, D.V.M. complete an additional THREE (3) hours of continuing education in emergency medicine within one year of the date of this order. Documentation of the completion of the continuing education penalty shall be received within thirty (30) days of the end of the period to complete the continuing education. If Respondent fails to provide documentation of completion within forty-five (45) days of the end of the period to complete the continuing education, further enforcement action will be taken.

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 provision of the 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, Findings of Fact and Conclusions of Law herein set forth, 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.

Respondent, by signing this Agreed Order, waives her right to a hearing and any right to seek judicial review of this Order. Respondent acknowledges that she is entitled to be represented by an attorney of Respondent's choice at her expense in any hearing before the Board.

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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 date of this Agreed Order shall be the date it is adopted by the Texas Board of Veterinary Medical Examiners.

I, RACHEL BROWN, D.V.M., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT 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.

Rachel Brown, DVM
RACHEL BROWN, D.V.M.

12/5/13
DATE

STATE OF ~~TEXAS~~ MICHIGAN
COUNTY OF OAKLAND

BEFORE ME, on this day, personally appeared Rachel Brown, D.V.M., known to me to be the person whose name is subscribed to the foregoing Agreed Order, and acknowledged to me that she executed the same for the purposes stated therein.

Given under the hand and seal of office this 5th day of December, 2013.

GERALYN PETTY
NOTARY PUBLIC, STATE OF MI
COUNTY OF MACOMB
MY COMMISSION EXPIRES Oct 24, 2016
ACTING IN COUNTY OF OAKLAND

Geraldyn Petty
Notary Public

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

Bud E. Alldredge, Jr.
Bud E. Alldredge, Jr., D.V.M.
President of the Board