

temperature was 102 degrees, her weight was eight pounds, and that she was dribbling urine, had pustular exudate on her vulva and had a runny nose. Respondent noted that her chest and lungs were clear and that a urinary analysis was negative for infection. Respondent did not indicate that he had a diagnosis for "Rusty," and did not record any differential diagnosis in his records. Dr. Bunch prescribed Combi-Pen 48 and lasix, but did not note the dosage or the route of administration. Respondent did not prescribe any antibiotics for "Rusty" beyond the single penicillin injection administered at the Clinic. Dr. Bunch recorded in his notes that he requested Mr. Guillot bring "Rusty" back for further examination 48 hours later, but that Mr. Guillot failed to do so.

4. On April 11, 2011, Mr. Guillot presented "Rusty" to Respondent again. On examination, Respondent noted that "Rusty" had a temperature of 102 degrees, but failed to note any other details to substantiate his examination of "Rusty," including whether the lungs were clear. Respondent also did not record weight for "Rusty." Respondent still did not indicate any diagnosis for "Rusty." Respondent prescribed Combi-Pen 48 and dexamethasone, but did not record the dosage, concentration or route of administration in his patient records. Respondent did not prescribe any antibiotics for "Rusty" to have administered at home. Respondent recorded in his notes that he again requested Mr. Guillot bring "Rusty" back for further examination 48 hours later, but that Mr. Guillot again failed to do so.

5. On April 19, 2011, Mr. Guillot presented "Rusty" to Respondent a third time. Respondent examined "Rusty" and recorded in the patient record that her temperature was 100 degrees, her weight was 7 pounds, that she had slight dehydration and was very lethargic, but that her lungs were clear. Respondent still did not indicate any diagnosis for "Rusty." Respondent again prescribed Combi-Pen 48 and dexamethasone, and again did not record the dosage, concentration or route of administration in his patient records. Respondent still did not prescribe any antibiotics for "Rusty" to have administered at home.

6. On April 23, 2011, Mr. Guillot presented "Rusty" to Respondent for the final time. Mr. Guillot told Respondent that he was concerned because "Rusty" appeared sicker, and still had a running nose. According to the patient record, Mr. Guillot advised Respondent that "Rusty" had not been "eating, drinking and using the litter box for 2-3 days." Respondent noted in the patient record that "Rusty" was unable to stand. Respondent did not note the condition of "Rusty's" lungs, or make any other notation to suggest that he had examined "Rusty's" lungs. Respondent still did not note any diagnosis for "Rusty" in the patient record. Respondent hospitalized "Rusty" for fluid therapy, and again administered Combi-Pen 48 and dexamethasone, but did not note in his patient records the volume of fluids administered, or the dosage, concentration or route of administration for either the antibiotic or the steroid he administered.

7. Respondent recorded in his patient record that at 10:00 pm on April 23, 2011, "Rusty" was "crying, moaning, suffering in pain." Without consulting Mr. Guillot or receiving

permission, Respondent euthanized "Rusty." Respondent did not record in the patient record the specific euthanasia drug used, or the dosage, concentration or route of administration.

8. According to the patient record, Respondent did not contact Mr. Guillot until the morning of April 24, 2011, and then only informed Mr. Guillot that "Rusty" had died in the night at about 10:00 pm.

9. According to the patient record, Mr. Guillot picked up the body of "Rusty" on April 25, 2011. Mr. Guillot asked if "Rusty" died while receiving fluids, and Respondent said yes. Respondent did not inform Mr. Guillot that Respondent had euthanized "Rusty."

10. Mr. Guillot suspected that Respondent had euthanized "Rusty." Mr. Guillot presented the body of "Rusty" to the Texas Veterinary Medical Diagnostic Laboratory in College Station, Texas for a necropsy on April 27, 2011.

11. The necropsy revealed that "Rusty" had evidence in her lungs of chronic, bilateral, purulent bronchopneumonia. A bacterial culture performed on lung tissue showed that "Rusty" was infected with penicillin-resistant *Pasteurella*. A drug screen performed on liver tissue showed that "Rusty" had been administered pentobarbital, confirming that she had been euthanized.

12. Respondent admitted that he dispensed a bottle of gentamicin sulfate solution, a bottle of Combi-Pen 48, and a bottle of praziquantel for Mr. Guillot to use to treat the cats Respondent had examined. The bottles do not have labels reflecting the information required under Rule of Professional Conduct 573.40, Labeling of Medications Dispensed, including but not limited to the veterinarian's name, address, and telephone number, the date of delivery or dispensing, the patient/client name, the species of the animal, and the directions for use.

13. Gentamicin is known to be both ototoxic and nephrotoxic in cats when given at the wrong dosage or over an extended period of time, causing kidney damage and damage to the inner ear, and therefore it is not an appropriate choice for a long-term or frequent-use antibiotic. During the informal conference, Respondent admitted that he had orally advised Mr. Guillot that the appropriate dosage for gentamicin, with a concentration of 100 mg/ml, was 1 ml for each cat, regardless of size. In actuality, the appropriate dosage for gentamicin, with a concentration of 100 mg/ml, is 2 mg per pound, or .2 ml for a ten-pound cat.

14. Respondent's controlled substance logs for ketamine and an unnamed "euthanasia" drug do not contain the information required under Board Rule of Professional Conduct 573.50, Controlled Substances Records Keeping for Drugs on Hand, including but not limited to the name of the "euthanasia" drug, the date of acquisition, the quantity purchased, or the balance on hand.

15. During the informal conference, Respondent admitted that he did not store his controlled substances in a "substantially constructed cabinet," as the term is defined in Board Rule of Professional Conduct 573.61.

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 13, Respondent violated Rule of Professional Conduct 573.22, Professional Standard of Humane Treatment, by failing to diagnose bilateral purulent bronchopneumonia despite repeatedly examining "Rusty" at least four times over a two-week period, by failing to prescribe long-term antibiotics for extended treatment of the chronic infection in "Rusty," by failing to prescribe any antibiotic other than penicillin when penicillin proved ineffective at treating the evident infection, and by dispensing gentamicin without written dosage instructions, with incorrect verbal dosage instructions, and for the purpose of treating long-term or frequent infections in Mr. Guillot's cats when gentamicin is both ototoxic and nephrotoxic.
3. Based on Findings of Fact 1 through 11, Respondent violated Rule of Professional Conduct 573.26, Honesty, Integrity and Fair Dealing, both by failing to obtain permission to euthanize "Rusty" from Mr. Guillot, and by failing to inform Mr. Guillot that he had euthanized "Rusty."
4. Based on Findings of Fact 1 through 11, Respondent violated Section 801.402 (12) of the Veterinary Licensing Act, Texas Occupations Code, by euthanizing "Rusty" without permission from Mr. Guillot.
5. Based on Findings of Fact 1 through 9, Respondent violated Rule of Professional Conduct 573.52, Patient Record Keeping, by failing to record the patient's weight when required for diagnosis and treatment; the differential diagnosis; the names, dosages, concentration and routes of administration for each drug prescribed, administered, and/or dispensed; and other details necessary to substantiate the examination, diagnosis and treatment provided.
6. Based on Findings of Fact 1, 2 and 12, Respondent violated Rule of Professional Conduct 573.40, Labeling of Medications Dispensed, by failing to affix labels to containers containing medications dispensed that include the veterinarian's name, address, and telephone number; the date of delivery or dispensing; the patient/client name; the species of the animal; and the directions for use.
7. Based on Findings of Fact 1, 2 and 14, Respondent violated Rule of Professional Conduct 573.50, Controlled Substances Recordkeeping for Drugs On Hand, by failing to record the name

of the drug, the date of acquisition, the quantity purchased, or the balance on hand.

8. Based on Findings of Fact 1, 2 and 15, Respondent violated Rule of Professional Conduct 573.61, Minimum Security for Controlled Substances, by failing to store his controlled substances in a securely locked, substantially constructed cabinet or security cabinet.

9. Based on Findings of Fact 1 through 15 and Conclusions of Law 1 through 3 and 5 through 8, 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.

10. Based on Conclusions of Law 1 through 9, 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.

11. Based on Conclusions of Law 1 through 9, 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 and in lieu of any administrative penalties or reprimands associated with a finding of a violation of the Board's rules and the Veterinary Licensing Act, Respondent voluntarily surrenders his veterinary license and will not seek reinstatement by the Board for five years from the date of this Order.

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, JOHN S. BURCH, 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.

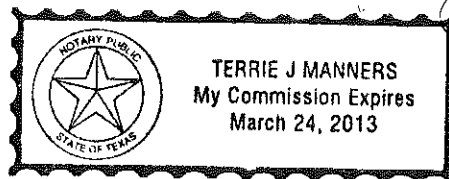
John S. Burch D.V.M.
JOHN S. BURCH, D.V.M.

27 Nov 12
DATE

STATE OF TEXAS §
COUNTY OF Liberty §

BEFORE ME, on this day, personally appeared John S. Burch, 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 27 day of November, 2012.



Terrie J Manners
Notary Public

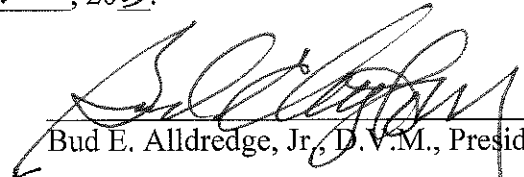
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SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL
EXAMINERS on this the 25th of March, 2013.



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

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