

SOAH NO. 578-13-1741
TBVME DOCKET NO. 2009-29

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

AGREED ORDER

On this the 25 th day of March, 2013, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Britton Conklin, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on January 9, 2009. The Respondent was represented by counsel, Don Ferrill, D.V.M.. 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 his understanding of the alleged violations and the adequacy and sufficiency of the notice provided to him.

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 April 27, 2006, David and Kennie King of Weatherford, Texas, presented "Cheeto", a five year-old Quarter Horse to Reata Equine Hospital after the horse had fractured its middle phalanx (P2) bone in its left front leg.
2. Respondent was the treating veterinarian for "Cheeto" on April 27, 2006. A modified pin cast was applied to "Cheeto's" injured leg. The pins were placed incorrectly. The pins were placed parallel instead of divergent and at the same point as the cast ended. The pins should have been placed very distally from the top of the cast to help prevent catastrophic failure of the cannon bone. By failing to do so, the pin concentrated the stress at the area of the bone where most fractures occur. The pins that were used were also smooth bore pins instead of threaded pins. Steel bars were placed in the cast which added additional and unnecessary weight, which

increased the stress on the improperly placed pins. Additionally, a pin was also placed in the proximal phalanx bone (P1 bone) across a joint from the two pins in the cannon bone and directly above the fractured P2 bone, when the pins of a transfixation cast are properly placed solely in the cannon bone. On May 4, 2006, the radiographs showed a fracture in the third metacarpal bone, yet the pins were not removed from the bone. The pins were not removed from the bone until May 24, 2006. By May 24, 2006, catastrophic failure of the cannon bone had occurred. "Cheeto" had a complete transverse fracture of his cannon bone through the top pin tract.

3. On May 11, 2006, Respondent drilled a one-inch diameter hole in "Cheeto's" hoof on the injured left front leg ostensibly to check for a lack of blood flow. The standard veterinary medical practice to check for a lack of blood flow is to do an exam for hoof warmth, a skin prick for bleeding at the coronary band, and, if that is inclusive, then to do a venogram. A venogram is a veterinary medical procedure where a contrast medium is injected into an area where the veterinarian wants to see the circulatory system to check for a lack of blood flow, and then radiographs are taken of that area of the animal. There was nothing indicated in the veterinary medical records for that day that anything was done to protect this new hole in the hoof from infection.
4. From May 24, 2006 until June 19, 2006, "Cheeto" was kept in a Liftex horse sling with a cast and bailing wire wrapped around the complete transverse fracture. There were no viable veterinary medical options to repair this complete transverse fracture. After May 24, 2006, Respondent neither obtained permission to euthanize, nor refused to treat "Cheeto" further.
5. Respondent's failure to use internal fixation for the treatment of this fracture does not represent 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 Weatherford, Texas or similar communities.
6. Respondent's failure to appropriately place a transfixation pin cast on "Cheeto" does not represent 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 Weatherford, Texas or similar communities.
7. Respondent's failure to conduct a venogram to check for lack of blood flow and failure to protect the injured hoof from infection do not represent 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 Weatherford, Texas or similar communities.
8. Respondent's failure to either obtain consent to euthanize "Cheeto" or to refuse to treat "Cheeto" further does not represent 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 Weatherford, Texas or similar communities.

9. Treatment of a fractured P2 bone in keeping with the standard of care requires complicated surgery that is beyond the capabilities of the average equine veterinarian and was beyond the capabilities of Respondent on April 27, 2006. Therefore, Respondent should have referred this case to an equine orthopedic surgery specialist.

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 9, Respondent has violated Rule 573.22, PROFESSIONAL STANDARD OF HUMANE TREATMENT, of the Board's Rules of Professional Conduct, 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 Findings of Fact 1 through 9, Respondent has violated Rule 573.23, RESPONSIBILITY OF VETERINARIAN TO REFER A CASE, of the Board's Rules of Professional Conduct, which requires veterinarians to suggest a referral to a specialist or more qualified licensee, in any case where the care and treatment of a patient is beyond the licensee's capabilities.
4. Based on Finding of Fact 1 through 9 and Conclusions of Law 1 through 3, 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.
5. Based on Conclusions of Law 1 through 4, 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.

6. Based on Conclusions of Law 1 through 5, 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 Board Rules, and in the manner set out in Section 801.401 **DISCIPLINARY POWERS OF THE BOARD**.

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

Based on the above Findings of Fact and Conclusions of Law, the Board **ORDERS** Britton Conklin, D.V.M., is **FORMALLY REPRIMANDED**.

The Board further **ORDERS** that Respondent pay, within 45 days of the date of this Order, an **ADMINISTRATIVE PENALTY** of one thousand dollars (\$1,000.00). If Respondent fails to pay the administrative penalty within 45 days of the date of this Order, Respondent's license shall be suspended until the penalty is paid.

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.

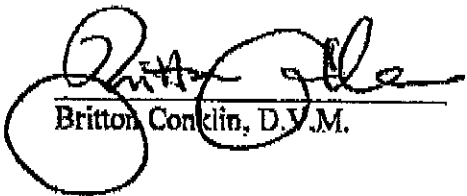
Respondent, by signing this Agreed Order, acknowledges his understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law herein set forth herein, and agrees that he will satisfactorily comply with the mandates of the Agreed Order in a timely manner or be subject to appropriate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

Respondent, by signing this Agreed Order, waives their 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. 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.

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

I, BRITTON CONKLIN, 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.

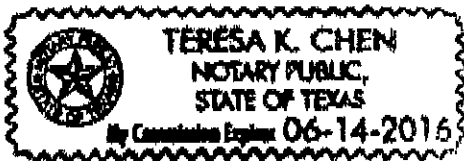

Britton Conklin, D.V.M.

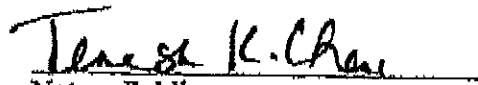
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STATE OF TEXAS §
COUNTY OF Randall §

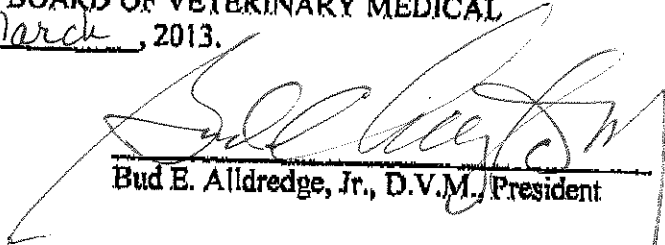
BEFORE ME, on this day, personally appeared BRITTON CONKLIN, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that he executed the same for the purposes stated therein.

Given under the hand and seal of office this 22 day of February, 2013.




Notary Public

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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