

form, Ms. Manning wrote that Ivermectin should not be administered to Little Joe. Respondent prescribed and dispensed Ivermectin to Ms. Manning for Little Joe. The medication was placed in vials labeled as "IV 1%." Ms. Manning was unaware that Ivermectin was in the vials.

4. Ms. Manning administered the Ivermectin to Little Joe on August 6, 2014. After receiving the medication, Little Joe appeared to have vision problems, an unsteady gait, and confusion. Ms. Manning presented Little Joe to the Southeast Texas Animal Emergency Clinic for treatment of Ivermectin toxicity.

5. Little Joe was treated at the emergency clinic and then transferred to the Clinic on August 7, 2014. Little Joe was treated for pneumonia and anemia among other medical issues during his stay at the Clinic.

6. Respondent left one weekend for vacation and showed a technician how to feed Little Joe through a tube. However, the technician was uncomfortable feeding Little Joe through a tube and did not feed him for two days while Respondent was on vacation. On the third day, the technician was able to feed Little Joe and he began to improve.

7. While at the Clinic, Little Joe received blood transfusions and had trouble digesting his food. Due to his trouble digesting his food, Ms. Manning requested that Little Joe receive smaller tube feedings.

8. Ms. Manning states that Respondent went on vacations frequently while Little Joe was in his care at the Clinic and that Little Joe's health would decline when Respondent was not there caring for him.

9. In early September 2014, Little Joe was still in Respondent's care at the Clinic. Respondent was again on vacation when he was informed as to Little Joe's declining condition. He stated he would perform another blood transfusion when he returned to the Clinic. However, Little Joe stopped breathing before Respondent returned. A technician contacted Respondent to obtain instructions on how to revive Little Joe. Soon thereafter, Little Joe passed away.

10. Respondent offered to cremate Little Joe for Ms. Manning and she agreed.

11. On September 11, 2014, Ms. Manning went to the Clinic to obtain Little Joe's ashes. She also requested a copy of the admission form she completed on which she stated not to administer Ivermectin. Respondent told Ms. Manning that the record was in storage and that he would have to look for it. He then reimbursed her for Little Joe's care at the emergency clinic and apologized for the mistake. Respondent did not charge Ms. Manning for Little Joe's care at the Clinic.

12. Respondent stated that Little Joe appeared to have signs of mange and that Ivermectin is the best way to treat mange. Respondent admitted to the Board that he made a mistake prescribing Ivermectin and that he forgot to consider Little Joe's breed when prescribing.

13. Further, Respondent previously treated Little Joe for his allergic reactions to fleas, which is why Ms. Manning had Respondent examine Little Joe. Ms. Manning had spoken to Respondent during previous examinations about Little Joe's inability to have Ivermectin. Finally, mange was not a likely diagnosis for Little Joe as he was approximately 7-8 years old with no exposure to puppies and, thus, no exposure to mange. Respondent did not collect any scrapings for testing for mange. No evidence existed to substantiate a diagnosis of mange.

14. Neither the Board nor Ms. Manning have received a copy of the admission form Ms. Manning completed on July 31, 2014.

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 the above Findings of Fact, Respondent has violated Rule 573.22, PROFESSIONAL STANDARD OF CARE, of the Board's Rules of Professional Conduct, by prescribing Ivermectin for Little Joe, and, thus, failing to exercise the same degree of humane care, skill, and diligence in treating patients as are 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 the above Findings of Fact, Respondent violated Rule of Professional Conduct 573.24, RESPONSIBILITY OF VETERINARIAN TO REFER A CASE, by failing to suggest a referral to Ms. Manning when Respondent was not able to properly care for Little Joe while he was away from the Clinic on personal business or vacation.

4. Based on the above Findings of Fact, Respondent violated Rule of Professional Conduct 573.40, LABELING OF MEDICATIONS DISPENSED, by failing to record required information on the labels of containers for medication dispensed, including the name of the drug dispensed.

5. Based on the above Findings of Fact, Respondent violated Rule of Professional Conduct 573.45, EXTRA-LABEL OR OFF-LABEL USE OF DRUGS, by using Ivermectin for an off-label use to treat mange without informing Ms. Manning and noting the notification in the patient records.

6. Based on the above Findings of Fact, Respondent violated Rule 573.52, VETERINARY PATIENT RECORDKEEPING, of the Board's Rules of Professional Conduct, by failing to maintain the admission form completed by Ms. Manning and failing to include details of Little Joe's treatment of tube feedings and details of examinations and treatments that occurred in 2013.

7. Based on the above Findings of Fact and Conclusions of Law, Respondent has violated Sections 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 practice or conduct that violates the board's rules of professional conduct.

8. Based on the above Conclusions of Law, 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 the above Conclusions of Law, 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 receive a FORMAL REPRIMAND.

The Board further ORDERS that Respondent pay, within forty-five (45) days of the date the Board approves this Order, and administrative penalty in the amount of ONE THOUSAND DOLLARS (\$1000.00). If Respondent fails to pay the administrative penalty within forty-five (45) days of the date of this Order, enforcement action will be taken. Further, if Respondent fails to pay the administrative penalty within 45 days of the date that the Board approves this Agreed Order, the

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Texas State Board of
Veterinary Medical Examiners

Board may apply any payment to the Board to ~~renew a license to~~ pay any outstanding administrative fee owed to the Board.

In addition, the Board ORDERS that Respondent complete an additional SIX (6) hours of continuing education, three (3) hours in RECORDKEEPING and three (3) hours in internal medicine/critical care, 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 after one year of the date the Board approves this Order. If Respondent fails to provide documentation of completion within forty-five (45) days of one year of the date the Board approves this Order, Respondent's license may 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, the laws of the State of Texas, and the laws of 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, BLAKE FOSKEY, 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.

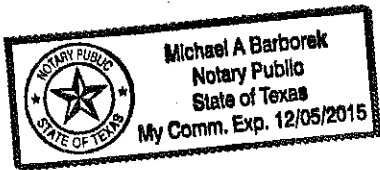
Blake Foskey DVM
BLAKE FOSKEY, D.V.M.

5/13/15
DATE

STATE OF TEXAS §
COUNTY OF Orange §

BEFORE ME, on this day, personally appeared BLAKE FOSKEY, 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 13 day of May, 2015



Michael A Barborek
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 21 July, 2015.

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