ORDER NO. 2009-19

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

AGREED ORDER

On this the 11th day of June, 2009, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Bruce Hardesty, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 573.22 an informal conference was held on December 12, 2008. The Respondent was present. 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/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 January 21, 2008, Alexis Carreiro presented "Madison", a twelve year-old male Domestic Shorthair feline to Bruce Hardesty, D.V.M., Austin, Texas, of South Congress Veterinary Clinic for weight loss, increased water intake, infrequent purring, and lethargy.

2. Respondent conducted a blood profile which revealed a high BUN and Creatine count and a low Potassium level. Respondent diagnosed "Madison" with kidney disease, and administered subcutaneous fluids. Respondent prescribed dietary food and recommended another subcutaneous fluid treatment at the end of the week. "Madison" did not eat for two days after the appointment and only urinated once. On January 31, 2008, "Madison" was presented for a follow up. Respondent administered subcutaneous fluids and prescribed more dietary food. "Madison's" condition worsened since the initial visit on January 21, 2008. On February 1, 2008 "Madison" was presented to Respondent, with a 103 degree fever. "Madison" suffered a seizure on the examination table. Respondent administered subcutaneous fluids, a cortisone injection.
and prescribed antibiotics. He did not check the cat’s heart rate or pupils or conduct another blood profile. After leaving the clinic, “Madison” suffered two more seizures that day, would not move from the cat carrier and did not eat, drink, urinate or defecate. “Madison” appeared completely disoriented.

3. Later that afternoon, “Madison” was presented to Dr. Kim Percival of the Cat Hospital of Austin for a second opinion. Dr. Percival conducted an examination and informed Ms. Carreiro that the cat’s blood profile revealed that it was in renal failure. Dr. Percival believed that Respondent should have administered IV fluids with Potassium, rather than the subcutaneous fluids. Euthanasia was recommended. Ms. Carreiro agreed and “Madison” was euthanized.

4. Respondent’s failure to properly diagnose and treat “Madison’s” renal failure 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 Austin, Texas or similar communities. Respondent’s failure to properly diagnose renal failure, and administer IV fluids to “Madison” caused complications and led to additional pain and suffering for “Madison.”

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 1-4, Respondent has violated Rule of Professional Conduct §573.22 PROFESSIONAL STANDARD OF HUMANE TREATMENT.

3. Based on Findings of Fact 1-4 and Conclusion of Law 2, Respondent has violated §801.402(6) 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 section 801.401 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.

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4. Based on Conclusions of Law 2 and 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. The board shall specify the continuing education programs that the license holder may attend and the number of hours that the license holder must complete. A continuing education program specified by the board must be relevant to the violation committed by the license holder.

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

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Bruce Hardesty, D.V.M., be FORMALLY REPRIMANDED. The Board further ORDERS Bruce Hardesty, D.V.M., complete three (3) hours of continuing education (CE) in the area of renal disease within one year of this Order. The CE hours are in addition to any CE hours Respondent is required to complete pursuant to Board Rule 573.64. Documentation reflecting completion of the CE penalty shall be received by February 12, 2010. If Respondent fails to provide said documentation within 30 days of February 12, 2010, Respondent’s license shall be suspended until the CE 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, 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/her understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law herein set forth herein, and agrees that he/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 his/her right to a formal hearing and any right to seek judicial review of this Agreed Order. Respondent acknowledges that he/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.

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

Bruce Hardesty, D.V.M.  
2/24/09  
Date

STATE OF TEXAS  
COUNTY OF TEARS

BEFORE ME, on this day, personally appeared BRUCE HARDESTY, 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 24 day of Feb, 2009.

Jack Pike  
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on February 12, 2009.  
June 11, 2009

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