DOCKET NO. 2002-59

IN THE MATTER OF § TEXAS STATE BOARD OF

THE LICENSE OF § VETERINARY MEDICAL EXAMINERS

CHARLES K. KAISER, JR., D.V.M. §

AGREED ORDER

On this the 17th day of October, 2002 came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of Charles K. Kaiser, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on September 19, 2002. The Respondent attended without 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 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 August 9, 2000 Chris A. Sitka, Yoakum, Texas presented his pregnant English bulldog, "Josie," to Charles K. Kaiser, D.V.M., Yoakum Animal Clinic, Yoakum, Texas for possible delivery of the dog’s puppies. Dr. Kaiser asked Mr. Sitka to leave the dog at the clinic for monitoring and that a C-section would be performed later if needed.

2. Dr. Kaiser left the clinic about 12:30 p.m. and was notified about 15 minutes later that "Josie" was not breathing. He returned to the clinic and attempted to resuscitate the dog. He was not successful. Dr. Kaiser then performed a C-section and attempted to save the 11 puppies, but the puppies also died.

3. Without the specific knowledge and consent of Mr. Sitka, Dr. Kaiser then performed a necropsy on the dog and removed several of the dog’s organs. He noted that the lungs were congested with foam present only in the smaller airways. He attributed the cause of the dog’s death to peracute cardiovascular/respiratory congestion, hypertension, and circulatory collapse.
He determined the cause of death of the puppies as asphyxiation secondary to circulatory collapse of "Josie."

4. Mr. Sitka sent the dog’s remains, absent several organs removed by Dr. Kaiser, to the Texas Veterinary Medical Diagnostic Laboratory for a necropsy. The histology report noted the presence of "marked widespread acute pulmonary edema, congestion and atelectasis, maternal lung," and concluded that "the cause of death is compatible with a sequelae to acute pulmonary edema, congestion and atelectasis."

5. The patient records for "Josie" do not include notations for the events connected to the August 9, 2000 clinic visit nor do they document the death of the dog and puppies. Information contained in the AVMA PLIT Professional Liability form were not included in the chronological patient records. There are no details in the patient records of regular clinic visits during "Josie’s" pregnancy. The patient records did not contain documentation of the request for a necropsy sent to the Texas Veterinary Medical Diagnostic Laboratory.

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 3 and 4, Respondent has violated Section 801.402 (12) of the Veterinary Licensing Act, Texas Occupations Code, GENERAL GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION, which prohibits the performing of unauthorized treatment.

3. Based on Finding of Fact 5, Respondent has violated Rule 573.52, PATIENT RECORD KEEPING, of the Board’s Rules of Professional Conduct, which requires that details of diagnosis, treatment and other procedures be included in individual patient records.

4. Based on Finding of Fact 5 and Conclusions of Law 1 and 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 a civil penalty.

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

The Board ORDERS that Charles K. Kaiser, Jr., D.V.M., be officially REPRIMANDED.

The Board further ORDERS that Respondent take and pass the Board’s JURISPRUDENCE
EXAMINATION within thirty (30) days of the Board’s approval of this Order.

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, Findings of Fact and Conclusions of Law herein set forth, 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. 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, CHARLES K. KAISER, JR., 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.

Charles K. Kaiser, Jr., D.V.M.  
9-30-2  
Date

STATE OF TEXAS  
COUNTY OF  

BEFORE ME, on this day, personally appeared Charles K. Kaiser, Jr., 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 30th day of September, 2002.

BARBARA S. JANAK  
Notary Public, State of Texas  
My Commission Expires  
APRIL 21, 2005

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 17th day of October, 2002.

Martin Garcia, D.V.M., President