

DOCKET NO. 2016-164

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

AGREED ORDER

On this the 18 day of Oct, 2016, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board" or "TBVME") the matter of the license of Dean Layh, D.V.M. ("Respondent"). Pursuant to Section 801.408 of the Texas Occupations Code, and Board Rule 575.29, an informal conference was held on June 28, 2016. Respondent did not attend the informal conference. 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 understanding the alleged violations and the adequacy and sufficiency of the notice provided.

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. Respondent, Dean Layh, D.V.M. of Denton, Texas, holds Texas veterinary license 5324.
2. The Board has jurisdiction over the subject matter and Respondent. Respondent received notice, which may be required by law and by the rules of the Board. All jurisdictional requirements have been satisfied under Tex. Occ. Code Ann. Title 4 ("Act"). By entering into this Agreed Order, Respondent waives any defect in the notice and any further right to notice and hearing under the Act; Tex. Gov't Code Ann. §§ 2001.051-.054; and the Rules of the Texas Board of Veterinary Medical Examiners ("Board Rules") (22 Tex. Admin. Code, Chapter 575).
3. On June 24, 2015, Michele Boyd took her twelve-year-old American Eskimo male canine, Cooper, to Denton Animal Hospital for vaccinations and a teeth cleaning.

4. Ms. Boyd requested that Dr. Layh review the shot records and provide necessary vaccinations. Dr. Layh reported to a TBVME investigator that he did not recall looking at the documents provided by Ms. Boyd. According to the records submitted by a previous provider, Cooper was due only for a bordatella and leptospirosis booster in July 2015. However, Dr. Layh administered additional yearly boosters without consulting with Ms. Boyd.

5. On July 23, 2015, Ms. Boyd took Cooper to the Corinth Veterinary Clinic. Cooper was examined by Dr. Dana Nelson, who noted while his checking gums and teeth that Cooper had significant dental tarter, gingivitis, halitosis, and gingival disease, as well as pale, tacky gums.

6. Over the next several days, Ms. Boyd transported Cooper to the Denton County Animal Emergency Clinic for overnight monitoring and back to Corinth Veterinary Clinic for daytime care. Dr. Stephanie Polley examined Cooper at the Denton County Animal Emergency Clinic, and found that it appeared his teeth had not been cleaned recently.

7. When Cooper's health declined, Ms. Boyd decided to euthanize him on July 25, 2015.

8. Dr. Layh's records for Cooper do not contain:
a. Cooper's weight; or
b. Other details necessary to substantiate the treatment provided.

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, 5, and 6, Dr. Layh has violated Rule 573.27, HONESTY, INTEGRITY, AND FAIR DEALING, of the Board's Rules of Professional Conduct, which states that a licensee shall conduct his practice with honesty, integrity, and fair dealing to clients in the amount charged for services.

3. Based on Finding of Fact 8, Respondent has violated Rule 573.52, VETERINARIAN PATIENT RECORD KEEPING, of the Board's Rules of Professional Conduct, by failing to make and maintain adequate records.

4. Based on Findings of Fact 1 through 8 and Conclusions of Law 1 through 3, Respondent has violated Section 801.402(4) (prohibiting a licensee from engaging in dishonest practices in the practice of veterinary medicine); Section 801.402(6) of the Veterinary Licensing Act (prohibiting violations of Board rules); and Section 801.402(12) (prohibiting a licensee from performing unauthorized treatment) 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:...

(4) engages in dishonest or illegal practices in, or connected with, the practice of veterinary medicine or the practice of equine dentistry;

...

(6) engages in practice or conduct that violates the board's rules of professional conduct;

...

(12) performs or prescribes unnecessary or unauthorized treatment.

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: (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.

6. 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.

7. Based on the above Conclusions of Law, Respondent may be required to provide restitution to the client as set out in Section 801.408(e), INFORMAL PROCEEDINGS.

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 RESTITUTION to Michele Boyd in the amount of ninety dollars (\$90.00) for the amount charged for the dental cleaning. Proof of restitution SHALL be provided to the Board no later than forty-five (45) days from the effective date of this Order.

The Board ORDERS that Respondent pay, within 45 days of the date the Board approves this Order, an ADMINISTRATIVE PENALTY of FIVE HUNDRED DOLLARS (\$500.00). If Respondent fails to pay the administrative penalty within 45 days of the date the Board approves this Order, which is the date this Order is signed by the Board, the 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 THREE (3) hours of continuing education in the area of recordkeeping, in addition to the seventeen required annually for renewal of Respondent's license to practice veterinary medicine, within one year of the date the Board approves 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 thirty (30) 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 understanding the Agreed Order, the notice, and Findings of Fact and Conclusions of Law set forth herein, and agrees to 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 the right to a formal hearing and any right to

seek judicial review of this Agreed Order. Respondent acknowledges having understood 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.

Signature page follows.

I, DEAN LAYH, 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.

Dean Layh
Dean Layh, D.V.M.

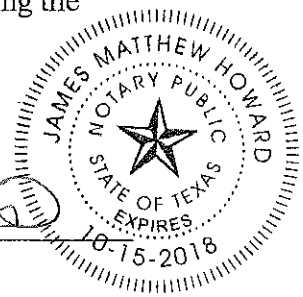
8/5/16
DATE

STATE OF TEXAS §
COUNTY OF Denton §

BEFORE ME, on this day, personally appeared Dean Layh, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me executing the same for the purposes stated therein.

Given under the hand and seal of office this 5 day of August, 2016.

James Matthew Howard
Notary Public



SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 18 Oct, 2016.

R. Lenarduzzi
Roland Lenarduzzi, D.V.M./Board President

