DOCKET NO. 2012-130

IN THE MATTER OF § TEXAS BOARD OF

THE LICENSE OF § VETERINARY

TERRY LITSEY, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this the 30th day of October, 2012, came to be considered by the Texas Board of Veterinary Medical Examiners (Board) the matter of the license of Terry Litsey, D.V.M. (Respondent). Pursuant to Section 801.408, Texas Occupations Code, and Board Rule 575.29, an informal conference was held on August 27, 2012. Respondent attended 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 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. Respondent, Terry Litsey, D.V.M. of Watauga, Texas, holds Texas veterinary license 6468.

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 November 15, 2011, Scott Biggerstaff presented his nine-year old Pug named “Peyton” to Respondent at the Litsey Animal Hospital (“Hospital”) in Watauga, Texas to have “Peyton’s” teeth cleaned.

4. When he dropped “Peyton” off for the tooth cleaning, Mr. Biggerstaff told a veterinary technician at the Hospital that he was concerned about “Peyton’s” age and potential reaction to anesthesia, and therefore if there were any abnormalities in “Peyton’s” pre-anesthetic blood work, he did not want “Peyton” placed under anesthesia.

5. Respondent performed pre-anesthetic blood work on “Peyton,” which revealed screen chemistries in the normal range, but an elevated white blood cell count. Respondent attributed the elevated white blood cell count to gingivitis, and went ahead with anesthesia.

6. Within minutes of beginning the anesthesia, “Peyton” went into cardiac and respiratory arrest, and was not responsive to resuscitation efforts.

7. When Mr. Biggerstaff arrived at the Hospital to pick up “Peyton,” Respondent did not allow Mr. Biggerstaff to take “Peyton” home for burial and did not offer a necropsy. In the patient record, Respondent wrote “private burial,” suggesting that Mr. Biggerstaff had requested a private burial for “Peyton.”

8. Contrary to his own record, and without receiving permission from Mr. Biggerstaff, Respondent sent “Peyton’s” body to Pine Hill for communal cremation.

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 8, Respondent has violated Rule 573.26, HONESTY, INTEGRITY AND FAIR DEALING, of the Board’s Rules of Professional Conduct, by failing to provide a private burial for “Peyton,” and instead sending the body for communal cremation.

3. Based on Findings of Fact 1 through 8 and Conclusions of Law 1 and 2, Respondent violated Section 801.402 (6) and (12) 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...

(12) performs or prescribes unnecessary or unauthorized treatment.

4. 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.

(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.

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:

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 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, TERRY LITSEY, 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.

\[Signature\]  
TERRY LITSEY, D.V.M.

\[Date\]  
Sept 4, 2012

STATE OF TEXAS  
\[\$\]

COUNTY OF \[\$\]

BEFORE ME, on this day, personally appeared Terry Litsey, 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 \[\_\_] day of \[\_\_]\_\_\_, 20\_\_.

\[Notary Public\]

Agreed Order 2012-130  
Terry Litsey, D.V.M.
SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 30th day of October, 2012.

Bud L. Allredge, Jr., D.V.M., President

Agreed Order 2012-130
Terry Litsey, D.V.M.