DOCKET NO. 2004-15
IN THE MATTER OF
THE LICENSE OF
JAMES LOVE, D.V.M.

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RECEIVED
MAY 20, 2004

TEXAS STATE BOARD OF
VETERINARY MEDICAL EXAMINERS

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AGREED ORDER

On this the 17th day of June, 2004 came on to be considered by the Texas State Board of Veterinary Medical Examiners (“Board”) the matter of the license of James Love, D.V. M (“Respondent”). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on May 13, 2003. The Respondent attended the conference 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 July 1, 2003, Becky Hayes, Paris, Texas, noticed that her dog “Riley” appeared to be sick. The dog was vomiting and had stopped eating and drinking. Ms. Hayes presented the dog to James Love, D.V.M., Love Small Animal Hospital, Paris, Texas, on July 1st. She told Dr. Love that she had seen “Riley” drinking water from a wheelbarrow that contained smelly water and decorative bark chips. She also told Dr. Love that the dog might have something hung in his throat because the dog was coughing and gagging after drinking the water. Dr. Love treated the case as mechanical/toxic enteritis and prescribed Amforal BID.

2. On July 3rd, Ms. Hayes returned the dog to Dr. Love because there was no improvement. Dr. Love hospitalized the dog from July 3rd to July 7th. Dr. Love treated “Riley” with Baytril/penicillin along with Amforal and phenobarbital. Blood work indicated to Dr. Love that the enteritis had progressed to a mild septicemia. Dr. Love reported that the dog was in good condition upon discharge (July 7th).

3. On July 8, Ms. Hayes presented “Riley” to Lyle Nottingham, D.V.M., Paris, Texas, who
found and removed a bone that had been lodged in the dog’s esophagus. The bone was discarded by Dr. Nottingham. The dog’s symptoms and condition noted by Dr. Nottingham on July 8th (slobbering, elevated heart rate, foul mouth odor) were inconsistent with Dr. Love’s observations of “Riley’s” condition upon discharge on July 7th. There was insufficient evidence that the lodged bone was present during the dog’s treatment by Dr. Love.

4. Dr. Love’s original patient records for “Riley” (submitted to the Board by Ms. Hayes) do not contain detailed information on the dog’s symptoms or condition upon presentation on July 1, 2003. There is no record of temperature in the original records. A handwritten temperature notation was included on the printed record filed with Dr. Love’s response to the complaint. There is no complete record of the treatments and observations for each day of hospitalization (July 3rd through July 7th). No notation of the hydration status of the patient was noted. No discharge instructions were included in the records.

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 Finding of Fact 4, Respondent has violated Rule 573.52, PATIENT RECORD KEEPING, of the Board’s Rules of Professional Conduct, which requires that a patient’s temperature be noted in the patient record, and that the record include other details necessary to substantiate the examination, diagnosis, and treatment provided.

3. Based on Finding of Fact 4 and Conclusions of Law 1 and 2, 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.

4. Based on Conclusions of Law 1 through 3, 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:

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that James Love, D.V.M., be INFORMALLY REPRIMANDED.

The Board further ORDERS that Respondent take and pass the Board’s JURISPRUDENCE EXAMINATION within 45 days of the date of this Order. If Respondent fails to take and pass the jurisprudence examination within 45 days of the date of this Order, Respondent's license shall be suspended until Respondent does take and pass the examination. Respondent may not re-take the examination any more frequently than 10 working days from the date of his last sitting for the examination. Should Respondent engage in the practice of veterinary medicine when under suspension, he will be subject to immediate disciplinary action.

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, and Findings of Fact and Conclusions of Law herein 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 is not 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, JAMES LOVE, 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.

James Love, D.V.M.

Date 5/17/04

STATE OF TEXAS
COUNTY OF Lamar

BEFORE ME, on this day, personally appeared JAMES LOVE, 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 17th day of May, 2004.

Diana Steelman
Notary Public
STATE OF TEXAS
My Commission Expires 06/14/2007

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 17th day of June, 2004.

Bee Pederson, D.V.M., President