DOCKET NO. 2003-12

IN THE MATTER OF

§

THE LICENSE OF

§

PETER K. MARTIN, D.V.M.

§

VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this the 12th day of June, 2003 came on to be considered by the Texas State Board of Veterinary Medical Examiners (“Board”) the matter of the license of Peter K. Martin, D.V. M (“Respondent”). Pursuant to Section 891.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on March 18, 2003. 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 or around May 18, 2002, Mr. Jim Bickley of Giddings, Texas, presented two goats for castration to Peter K. Martin, D.V.M., Giddings Veterinary Clinic, Giddings, Texas. Dr. Martin assured Mr. Bickley that he, Dr. Martin, could perform the procedure.

2. Dr. Martin performed the surgery on the first goat which had been placed standing up in a squeeze chute. Dr. Martin told Mr. Bickley that he was going to tie off the testicular vessels so the goat would not bleed excessively. Dr. Martin pulled on the testicles until the cremaster vessel broke, and the vessels were ligated with chromatic gut. The goat bled as it was led back to the trailer. Dr. Martin told Mr. Bickley that the bleeding would stop in about an hour. Dr. Martin laid the other goat down in the trailer and castrated him. The second goat had very little post-surgical bleeding.

3. When the goats arrived back at Mr. Bickley’s home, Mr. Bickley observed that the first goat was still bleeding. Within five hours of the first goat’s surgery, Mr. Bickley called Dr. Martin and told him that the goat was still bleeding. Dr. Martin told Mr. Bickley to stop worrying about it and again said that the bleeding should stop. After another approximately three hours, the goat
had bled to death.

4. The acts and/or failures to act specified in Findings of Fact 1 through 3, and more specifically, Dr. Martin’s failure to properly castrate a goat so as to minimize bleeding and respond in a timely manner to the owner’s report that the goat was still bleeding after five hours, do 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 Giddings, Texas or in similar communities.

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 4, Respondent has violated Rule 573.22, PROFESSIONAL STANDARD OF HUMANE TREATMENT, of the Board’s Rules of Professional Conduct, which requires veterinarians to exercise 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 the locality or community in which they practice, or in similar communities.

3. Based on Findings of Fact 1 through 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.

5. 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 Peter K. Martin, D.V.M., be OFFICIALLY REPRIMANDED.

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 waived representation 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, PETER K. MARTIN, 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.
STATE OF TEXAS
COUNTY OF BEXAR

BEFORE ME, on this day, personally appeared PETER K. MARTIN, 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 12TH day of APRIL, 2003.

Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 12th day of June, 2003.

J. Lynn Lawhon, D.V.M., President