DOCKET NO. 2013-151

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

AGREED ORDER

On this the 22nd day of October, 2013, came to be considered by the Texas Board of Veterinary Medical Examiners (Board) the matter of the license of ASHLIE McBROOM, D.V.M. (Respondent). Pursuant to Section 801.408, Texas Occupations Code, and Board Rule 575.29, an informal conference was held on August 8, 2013. Respondent attended the informal conference and was represented by counsel, Donald Ferrill, D.V.M. 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 her understanding of the alleged violations and the adequacy and sufficiency of the notice provided to her.

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


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).

4. Respondent examined Lily and noted that her abdomen seemed tense and possibly uncomfortable. Respondent's preliminary differential diagnosis was that Lily had gastroenteritis, pancreatitis, or a foreign body in her gastrointestinal tract.

5. Respondent performed abdominal radiographs, and did not note anything abnormal in the radiographs. The radiographs that Respondent took showed evidence of pleural effusion in the lungs, but Respondent did not notice.

6. Respondent administered an injection of Cerenia to stop vomiting, and sent Lily home with Mrs. Shapiro.

7. Over the next week, Lily appeared increasingly depressed. On April 15, 2012, Mrs. Shapiro noticed that Lily was having trouble breathing.

8. Early in the morning of April 16, 2012, Mrs. Shapiro presented Lily to Kathleen Gentry-Running, D.V.M. at Metro West Emergency Veterinary Clinic in Fort Worth, Texas for difficulty breathing. Dr. Gentry-Running performed radiographs, which revealed pleural effusion in Lily's lungs. Mrs. Shapiro elected to euthanize Lily humanely.

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 violated Rule 573.22, PROFESSIONAL STANDARD OF CARE, of the Board's Rules of Professional Conduct, by failing to diagnose pleural effusion from the radiographs that she took of Lily on April 7, 2012.

3. Based on Findings of Fact 1 through 8 and Conclusions of Law 1 and 2, Respondent has violated Sections 801.402 (4) and (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:

(4) engages in...illegal practices in, or connected with, the practice of veterinary medicine...

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(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:

(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.

5. Based on Conclusions of Law 1 through 3, 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.

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 an INFORMAL 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.

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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 her understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law set forth herein, and agrees that she 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 her right to a formal hearing and any right to seek judicial review of this Agreed Order. Respondent acknowledges that she 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, ASHIE McBROOM, 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]
ASHIE McBROOM, D.V.M.

DATE

9-3-13

STATE OF TEXAS

COUNTY OF [REDACTED]

BEFORE ME, on this day, personally appeared Ashlie McBroom, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that she executed the same for the purposes stated therein.
Given under the hand and seal of office this 3 day of November, 2013.

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 22nd October, 2013.

Bud E. Alldredge, Jr., D.V.M., President