



4. On March 4, 2015, Respondent performed surgery on Paco's broken leg. Respondent made a medial thigh incision and placed a femoral pin. The pin was not properly seated. The pin was exposed and protruded through the skin at the upper portion of Paco's femur. Respondent then placed a Schroeder-Thomas splint on the leg.
5. On March 17, 2015, Mr. Dailey brought Paco to Respondent for a follow-up appointment. Paco had developed a weeping ulcer at the incision site. Respondent treated the ulcers with laser therapy several times from between March 17 and April 16, 2015. Antibiotics were prescribed on multiple occasions and were ineffective.
6. On March 17 and April 8, 2015, radiographs were taken of Paco's leg. On April 27, 2015, Respondent performed another surgery to remove loose bone fragments from Paco's leg. Throughout this period, Paco's condition continued to deteriorate.
7. On May 5, 2015, Paco was taken to another veterinary clinic for treatment. Radiographs were taken of Paco's leg, which revealed several bone fragments and a fracture site with no sign of significant healing.
8. On May 12, 2015, Paco was presented to another veterinarian for surgery, but it was determined that Paco was not healthy enough to undergo another surgery. Paco was euthanized on May 15, 2015.

#### **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.
9. Based on the above Findings of Fact, Respondent has violated Rule 573.22, PROFESSIONAL STANDARD OF CARE, of the Board's Rules of Professional Conduct, which requires licensees to exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances. Specifically, Respondent placed a femoral pin in a shattered femur that was not a good candidate for pinning and likely required a plate. Thus, Respondent failed to properly stabilize the fractured femur. Additionally, Respondent elected to make a medial incision rather than a lateral incision, did not properly seat the femoral pin, and left the pin exposed.
2. Based on the above Findings of Fact and Conclusions of Law, Respondent has violated Sections 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 practice or conduct that violates the board's rules of professional conduct.

3. Based on the above Conclusions of Law, 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.

4. 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 Mr. Dailey in the amount of \$1,653.92 for the total cost of Paco's treatment. Proof of restitution SHALL be provided to the Board no later than forty-five (45) days from the effective date of this Order.

In addition, the Board ORDERS that Respondent complete SIX (6) hours of continuing education in orthopedic surgery, 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 an understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law set forth herein, and agrees that 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 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.

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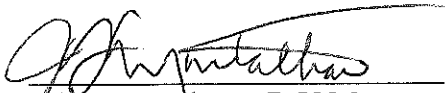
**Signature page follows.**

Received

JUL 6 2016

Texas State Board of  
Veterinary Medical Examiners

I, JOHN MONTALBANO, 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.

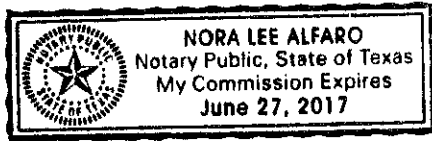
  
John Montalbano, D.V.M.


7-5-16  
DATE

STATE OF TEXAS §  
COUNTY OF Cameron §

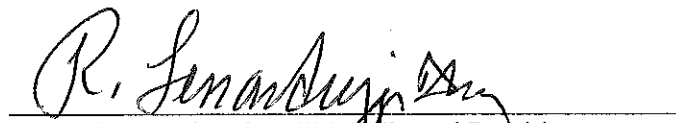
BEFORE ME, on this day, personally appeared John Montalbano, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that it was executed the same for the purposes stated therein.

Given under the hand and seal of office this 5<sup>th</sup> day of July, 2016.



  
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 19 July, 2016.

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