DOCKET NO. 2010-95

IN THE MATTER OF § TEXAS BOARD OF
THE LICENSE OF § VETERINARY
MICHAEL C. MORAN, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this the 1p day of Sept, 2010, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Michael C. Moran, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on August 2, 2010. The Respondent waived appearance for the informal settlement 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. On October 5, 2009, Mollie Vieau of Woodville, Texas, presented her four month-old Chihuahua-Terrier mix male canine, "Maks" for the rest of his puppy shots to Michael C. Moran, D.V.M. of Dewberry Creek Animal Clinic in Woodville, Texas.

2. Dr. Moran and his assistant, Christie, greeted her in the waiting room. Christie carried "Maks" to the examination room. Dr. Moran was examining "Maks" and attempted to check the mouth. Dr. Moran placed two fingers in the mouth and "Maks" bit him. Ms. Vieau stated Dr. Moran looked at his fingers and said, "He bit me." Then Dr. Moran "cold-cocked" her puppy. "Maks" defecated on the table. Ms. Vieau declined to have the vaccinations done and left.

3. The next day, Ms. Vieau presented "Maks" to Gordon P. McCluskey at the Woodville Veterinary Clinic in Woodville, Texas. Dr. McCluskey stated that "Maks" appeared normal that
day. Dr. McClusky administered the rest of the shots without complications.

4. Dr. Moran admitted he struck “Maks” during the examination after being bit. Dr. Moran stated it was a “big mistake.” Dr. Moran’s admission is a mitigating factor in this case.

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 1 through 5, 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 the above Findings of Fact 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 an administrative penalty

Agreed Order 2010-95
Michael C. Moran, D.V.M.
NOW, THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Michael C. Moran, D.V.M., be FORMALLY 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 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, MICHAEL C. MORAN, 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.

Michael C. Moran, D.V.M.

8-10-10

Date

STATE OF TEXAS

COUNTY OF Tyler

BEFORE ME, on this day, personally appeared MICHAEL C. MORAN, 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 10 day of August, 2010.

Nancy Russell
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 10 day of Sept, 2010.

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

Agreed Order 2010-95
Michael C. Moran, D.V.M.