DOCKET NO. 2010-93

IN THE MATTER OF $ TEXAS BOARD OF
THE LICENSE OF $ VETERINARY
MATTHEW B. MURPHY, D.V.M. $ MEDICAL EXAMINERS

AGREED ORDER

On this the 10 day of Sept., 2010, came on to be considered by the Texas Board of Veterinary Medical Examiners (“Board”) the matter of the license of Matthew B. Murphy, 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 appeared, but was not represented by counsel. The Board was represented at the conference by the Board’s Enforcement Committee.

Respondent 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 15, 2009, Maryan Watkins of Dallas, Texas presented her nine month-old male domestic shorthair cat, “Kit Kat” to Matthew B. Murphy, D.V.M., of City Veterinary Center in Dallas, Texas, for wheezing.

2. Dr. Murphy examined “Kit Kat” and prescribed Interferon to be administered 1 ml oral once daily for five days. Mrs. Watkins was given a box of Revolution (with the lot number matching Dr. Murphy’s inventory) with the prescription label for Interferon placed on it. That evening, Will Watkins, husband of Maryan Watkins, administered to “Kit Kat” a dose of Revolution orally, per the instructions placed on it. The following morning Mr. Watkins again administered Revolution orally to “Kit Kat.” Mr. Watkins then realized something was wrong and examined the box of Interferon and revolution and determined the error. Mr. Watkins went to Dr. Murphy and informed Dr. Murphy of the error. Dr. Murphy apologized for the error and stated that as he did not notice that “Kit Kat” was suffering any side effects, he should watch the cat for any neurologic or
"Kit Kat" was suffering any side effects, he should watch the cat for any neurologic or gastrointestinal signs and return for reexamination in ten days.

3. Mr. Watkins stated "Kit Kat" was still not acting himself after several days and he presented "Kit Kat" to Sharon Cleghorn, D.V.M. of the University Animal Hospital in Dallas, Texas. Dr. Cleghorn examined the cat and found it to be in serious condition, exhibiting signs of kidney damage among other internal stresses. Dr. Cleghorn placed "Kit Kat" on an IV catheter. "Kit Kat" has permanent kidney damage and is on subcutaneous fluids for the rest of his life.

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 Facts 1 through 3, Respondent has violated Rule 573.10, SUPERVISION OF NON-LICENSED EMPLOYEES, of the Board’s Rules of Professional Conduct, which requires veterinarians to be directly responsible for all actions of non-licensed employees acting under the licensee’s directions or authorization. Dr. Murphy failed to properly supervise his non-licensed veterinary technicians and is responsible for the mislabeling of medications from his clinic.

3. Based on Finding of Facts 1 through 3 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
(4) reprimand a license holder; or
(5) impose an administrative penalty.

5. Based on Conclusions of Law 1 through 3, the Board may order the license holder to refund an amount not to exceed the amount a client paid to the license holder instead of or in addition to imposing an administrative penalty, under Section 801.408 of the Veterinary Licensing Act, Texas Occupations Code.

NOW, THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:

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

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Respondent pay, within 30 days of the date of this Order, RESTITUTION of ONE HUNDRED AND NINETY FOUR DOLLARS AND SEVENTY-SEVEN CENTS ($194.77). If Respondent fails to pay the restitution within 30 days of the date of this Order, enforcement action will be taken. Failure to timely pay restitution will be considered a violation of this Order.

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 had the right to be represented by legal counsel in this matter.

Agreed Order 2010-93
Matthew B. Murphy, D.V.M.
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, MATTHEW B. MURPHY, 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.

Matthew B. Murphy, D.V.M.  
8/10/10  
Date

STATE OF TEXAS  §  
COUNTY OF ___________________  §  

BEFORE ME, on this day, personally appeared Matthew B. Murphy, 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 11 day of August, 2010.

KATHRYN A. TANT  
Notary Public, State of Texas  
My Commission Expires  
January 12, 2011

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

Bud E. Alldredge, Jr., D.V.M.  
Texas Board of Veterinary Medical Examiners, President

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