

DOCKET NO. 2014-246

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

**AGREED ORDER**

On this the 18 day of October 2014, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Cherie Nazzal, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code, and Board Rule 575.29, an informal conference was held on October 20, 2014. Respondent did attend the informal conference, but was not represented by 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 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**

1. Respondent, Cherie Nazzal, D.V.M. of Gilmer, Texas, holds Texas veterinary license 5535.
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).
3. In November 2013, Robert and Sarah Bussey agreed to foster a three-month old Chihuahua, named Longhair, and another dog for Texas Star Rescue. On November 12, 2013, Mr. Bussey presented Longhair to Respondent at the Animal Medical and Surgical Hospital (the

“Hospital”) in Gilmer, Texas, to be neutered and to have an injured eye treated.

4. Mr. Bussey was told to call the Hospital around 4 p.m. that day to ask if Longhair was ready for discharge. Mr. Bussey went to the Hospital at 4:30 p.m. and was told that Longhair was next in line for surgery. The staff told Mr. Bussey to call the next day around noon.

5. Prior to the surgery, Respondent performed a physical exam and noted that Longhair’s left testicle had not descended, a condition called “cryptorchidism.” Respondent noted in the patient records that the testicle was “possibly in [the] inguinal canal” and that she had “palpitated [a] small nodule” there. Respondent began the surgery and removed the right testicle. However, the left testicle was not in the inguinal canal.

6. Respondent decided to continue with the surgery. She extended the incision along Longhair’s left groin, and then up Longhair’s abdomen. Respondent later told Mr. and Ms. Bussey that she removed Longhair’s intestines from his abdomen while searching for the testicle. Respondent eventually located the testicle by Longhair’s last rib above his kidney. Respondent closed the incision with surgical staples. Respondent stated that the procedure lasted for three hours. Respondent did not administer intravenous (IV) fluids to Longhair during the surgery.

7. Respondent stated that Longhair exhibited symptoms of shock after the procedure, so she placed Longhair on IV fluids. The patient records did not reflect that Respondent unsuccessfully attempted to perform a blood test. The patient records also did not reflect that Respondent provided Longhair with treatment to maintain his blood glucose levels.

8. Respondent took Longhair home with her on the night of November 12, 2013. At approximately 11:00 a.m. on November 13<sup>th</sup>, Mr. Bussey called the Hospital. The Hospital staff informed him that Longhair was not doing well. Mr. and Ms. Bussey went to the Hospital at approximately noon to check on Longhair. Ms. Bussey stated that while Longhair was still alive, he appeared lifeless and felt ice cold. Mr. and Ms. Bussey took Longhair home, where they unsuccessfully attempted to warm him up. Longhair died at approximately 7:15 p.m. on November 13, 2013.

9. After Longhair’s death, Ms. Bussey posted comments regarding Respondent and Longhair on a Facebook website. Respondent posted public responses to these comments in which she disclosed information concerning her care and treatment of Longhair. Specifically, Respondent disclosed that Longhair was cryptorchid, that the testicle was difficult to find, that he also underwent eye surgery, and that she administered IV fluids and took Longhair home with her.

#### **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.

3. Based on the above Findings of Fact, Respondent violated Rule 573.52, VETERINARIAN PATIENT RECORD KEEPING, of the Board's Rules of Professional Conduct, by failing to include required information in the medical records for Longhair.

2. Based on the above paragraphs, Respondent has violated Rule 573.28, OBSERVANCE OF CONFIDENTIALITY, of the Board's Rules of Professional Conduct, by revealing details of Longhair's medical issues and treatments.

3. Based on Findings of Fact 1 through 13 and Conclusions of Law 1 through 3, 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.

4. Based on Conclusions of Law 1 through 4, 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.

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.

In addition, the Board ORDERS that Respondent complete THREE (3) hours of continuing education in pediatric surgery and complete THREE (3) hours of continuing education in anesthesia, in addition to the seventeen required annually for renewal of Respondent's license to practice veterinary medicine, within one year of the date of this Order. Documentation of the completion of the continuing education penalty shall be received within thirty (30) days after one year of the date of this Order. If Respondent fails to provide documentation of completion within forty-five (45) 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 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.

**Signature page to follow.**

I, CHERIE NAZZAL, 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.

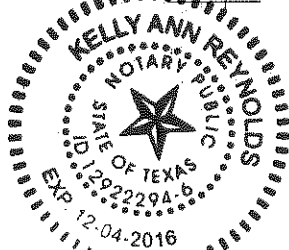
Cherie Nazzal  
CHERIE NAZZAL, D.V.M.

8/24/16  
DATE

STATE OF TEXAS §  
COUNTY OF Upton §

BEFORE ME, on this day, personally appeared Cherie Nazzal, 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 24 day of August, 2016.



Kelly Reynolds  
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 18 October, 2016.

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