AGREED ORDER 2009-59

IN THE MATTER OF § TEXAS BOARD OF
THE LICENSE OF § VETERINARY
WATT A. NORMAN, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this the 28st day of June, 2010, came on to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of WATT A. NORMAN, D.V.M. ("Respondent"). Pursuant to §801.408 of the Veterinary Licensing Act and Board Rule 575.27, an informal conference was held on May 4, 2009. Respondent was represented by attorney, Donald Ferrill, D.V.M. 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 September 13, 2007, the Board received a complaint from Leisa Rounds of Malakoff, Texas alleging Sheree Daniel, a registered veterinary technician at Cedar Creek Veterinary Clinic, Malakoff, Texas was practicing veterinary medicine without a license by providing veterinary medical services without veterinarian supervision.

2. Respondent employed Ms. Daniel as a veterinary technician at his clinic. Ms. Daniel had been employed by Respondent for 19 years. Respondent was out of town on several occasions during 2007. Patient records indicate that, from February 19, 2007 through September 15, 2007, Ms. Daniel provided veterinary services to Respondent’s clients when he was out of town, including examinations, dispensing of prescription medications, vaccinations, rabies vaccinations, issuance of rabies certificates, health documents, diagnosis, treatments, and other veterinary medical services. One hundred and forty-two (142) patients are documented as having received veterinary medical services in Respondent’s absence. Respondent received compensation for these services rendered by Ms. Daniel. Respondent accepts full responsibility for his failure to supervise Ms. Daniel, which allowed her to practice veterinary medicine without a license.

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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 & 2, Respondent violated Rule 573.10 (d) and (e), SUPERVISION OF NON-LICENSED EMPLOYEES by failing to supervise a non-licensed employee, thereby allowing her to practice veterinary medicine without a license.

3. Based on Findings of Fact 1 & 2, Respondent violated Rule 573.11 RESPONSIBILITY FOR UNLICENSED AND LICENSED EMPLOYEES by allowing an employee to practice veterinary medicine without a license.

4. Based on Findings of Fact 1 & 2, Respondent violated Rule 573.51 RABIES CONTROL, by allowing an unlicensed person to administer the rabies vaccine and certificates without his direct supervision.

5. Based on Findings of Fact 1 & 2, Respondent has violated Rule 573.26 HONESTY, INTEGRITY, and FAIR DEALING by receiving compensation for veterinary medical services performed by an unlicensed employee.

6. Based on Finding of Facts 1 & 2 and Conclusions of Law 1-5, Respondent has violated §801.402(6) of the Veterinary Licensing Act, 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.

7. Based on Conclusions of Law 1-6, Respondent is subject to disciplinary action under §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 § 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.
8. Based on Conclusions of Law 1-6, Respondent is subject to disciplinary action under §801.451 of the Veterinary Licensing Act, Texas Occupations Code:

801.451. IMPOSITION OF ADMINISTRATIVE PENALTY. The board may impose an administrative penalty on a person, including a corporation, organization, business trust, estate, trust, partnership, association, or other legal entity, who violates this chapter or a rule adopted or order issued under this chapter.

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 be FORMALLY REPRIMANDED.

The Board further ORDERS that Respondent pay, within 30 days of the date of this Order, an ADMINISTRATIVE PENALTY of ONE THOUSAND FIVE HUNDRED DOLLARS ($1,500.00). If Respondent fails to pay the administrative penalty within 30 days of the date of this Order, enforcement action will be taken.

The Board further ORDERS that:

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.

Respondent shall cooperate with the Board’s attorneys, investigators, compliance officers and other employees and agents investigating Respondent’s compliance with this Order.

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. The effective date of this Agreed Order shall be the date it is adopted 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.

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. NOTHING IN THIS ORDER SHALL BE DEEMED A WAIVER OF RESPONDENT'S RIGHTS UNDER STATUTE OR UNDER THE UNITED STATES OR TEXAS CONSTITUTIONS TO APPEAL AN ORDER OR ACTION OF THE BOARD SUBSEQUENT TO THIS AGREED ORDER EXCEPT AS RESPONDENT MAY HAVE OTHERWISE AGREED TO HEREIN. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

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Walt A. Norman, D.V.M.
I, WATT A. NORMAN, 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.

Watt A. Norman, D.V.M.

Date

STATE OF TEXAS §
COUNTY OF Henderson §

BEFORE ME, on this day, personally appeared Watt A. Norman, 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 15 day of June, 2011.

KASEY JAMISON
MY COMMISSION EXPIRES
July 19, 2012

Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 28 day of June, 2011.

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