DOCKET NO. 2016-166

IN THE MATTER OF § TEXAS BOARD OF
THE LICENSE OF § VETERINARY
R. KENT OAKLEY, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this the 18 day of October, 2016 came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of R. Kent Oakley, D.V.M. ("Respondent"). Pursuant to Section 801.408 of the Texas Occupations Code, and Board Rule 575.29, an informal conference was held on June 27, 2016. Respondent attended the informal conference and was 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 understanding the alleged violations and the adequacy and sufficiency of the notice provided.

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, R. Kent Oakley, D.V.M. of Sugar Land, Texas, holds Texas veterinary license 7557.

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. On the night of November 22 and the early morning of November 23, 2014, complainant Mary Anne Bair noticed that her 13-year-old Chihuahua, Teddy, was having difficulty urinating. She took Teddy to Sugar Land Veterinary Specialists and Emergency Center (the Clinic).
4. A licensed veterinary technician took the patient’s history, and then Teddy was presented to Dr. Kent Oakley. Dr. Oakley examined Teddy and noted a large distended gas-filled stomach. Dr. Oakley took a right lateral radiograph of Teddy’s abdomen, and a large gas-distended stomach with a volvulus was determined.

5. Dr. Oakley informed Ms. Bair of his diagnosis and that surgery was necessary or Teddy would have to be euthanized. Ms. Bair consulted with her husband, and they determined that surgery would be too difficult on Teddy. Based on this decision, Ms. Bair authorized Dr. Oakley to euthanize Teddy, which he did.

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 the above Findings of Fact, Respondent has violated Rule 573.22, PROFESSIONAL STANDARD OF CARE, of the Board’s Rules of Professional Conduct, by taking only one radiograph of Teddy to diagnose GDV and failing to offer the client other options, and, thus, failing to exercise the same degree of humane care, skill, and diligence in treating patients as are 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 Findings of Fact 1 through 5 and Conclusions of Law 1 through 2, 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 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:
(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 an INFORMAL REPRIMAND.

In addition, the Board ORDERS that Respondent complete THREE (3) hours of continuing education in the area of radiology, 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 understanding the Agreed Order, the notice, and Findings of Fact and Conclusions of Law set forth herein, and agrees 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 understood 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 follows.**
I, R. KENT OAKLEY, 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.

R. Kent Oakley, D.V.M.

STATE OF TEXAS
COUNTY OF FORT BEND

BEFORE ME, on this day, personally appeared R. Kent Oakley, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me executing the same for the purposes stated therein.

Given under the hand and seal of office this 28th day of JULY, 2016.

SIGNED AND ENTERED BY THE TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 8th day of OCTOBER, 2016.

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

Agreed Order 2016-166
R. Kent Oakley, D.V.M.