DOCKET NO. 2003-24

IN THE MATTER OF § TEXAS STATE BOARD OF
THE LICENSE OF § VETERINARY MEDICAL EXAMINERS
BRIAN POTEET, D.V.M. §

AGREED ORDER

On this the 12th day of June, 2003 came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of Brian Poteet, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on May 13, 2003. The Respondent attended without 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 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. In February, 2001, Mr. Linn Gilchriest presented his 15-year old cat “Mystophilees” to Jim C. Vulgamott, D.V.M., Gulf Coast Veterinary Specialists, Houston, Texas, for his annual checkup. The cat had been a patient of Dr. Vulgamott since 1991. The cat had been previously diagnosed with diabetes mellitus. At the checkup, Mr. Gilchriest mentioned that the cat had lost weight. Dr. Vulgamott examined the cat and diagnosed hyperthyroidism.

2. Dr. Vulgamott suggested Tapazole as a treatment regimen. This drug caused vomiting and glucose swings. Dr. Vulgamott then referred Mr. Gilchriest to Gulf Coast Diagnostic Imaging for radioiodine therapy for the hyperthyroidism. Brian Poteet, D.V.M., was the attending veterinarian.

3. On July 2, 2001, Mr. Gilchriest met with Dr. Poteet for initial consultation on the proposed thyroid treatment. Dr. Poteet explained that the therapy would likely change the dosage of insulin required. At the time, “Mystophilees” was receiving 8 units of insulin twice a day. Blood work prior to the thyroid scan revealed a high glucose level (429 mg/dl). The cat was injected
with 3.5 mCi of 131-Iodine subcutaneously. The cat seemed to recover satisfactorily from the procedure. On July 5, 2001, urinalysis revealed a glucosuria of 850 mg/dl and the presence of ketones. Dr. Poteet injected “Mystophilees” with 80 units of insulin instead of eight units. After a few minutes, Dr. Poteet realized his mistake and asked Dr. Vulgamott to assist with the case. The cat’s glucose levels were monitored every two hours over the next 48 hours. The glucose levels never fell to critical levels despite the insulin injection.

4. The patient records for “Mystophilees” do not contain a notation of the amount of insulin injected into the cat on July 5, 2001.

5. Care of “Mystophilees” was transferred to Jennifer Garcia, D.V.M. when Dr. Vulgamott went off rotation on July 7, 2001. On July 9, 2001, Dr. Garcia reported that the cat was doing well and that he could be discharged that day. Mr. Gilchriest picked up the cat and took him home. On July 10, 2001, Mr. Gilchriest called the clinic to report that the cat was not eating.

6. On July 13, 2001, Mr. Gilchriest returned the cat to Gulf Coast Emergency because “Mystophilees” would not eat or drink and had developed a runny nose and sneezes. The veterinarian on duty indicated that the cat was dehydrated and his kidney function was elevated slightly. The cat’s condition improved, but by the afternoon of July 14, 2001, his condition worsened. Dr. Vulgamont told Mr. Gilchriest on July 16, 2001 that the cat’s condition continued to deteriorate and he was put on IV fluids because he had a respiratory virus. A blood transfusion was administered the next day. Over the next few days the cat’s condition improved and he was released on July 25, 2001. Dr. Vulgamont instructed Mr. Gilchriest to give “Mystophilees” four units of insulin twice a day. “Mystophilees” continued to have recurring health problems until on December 25, 2001, he had seizures and had to be transported to an emergency facility. The cat subsequently died.

7. Dr. Poteet’s administration of a dose of insulin ten times in excess of an amount that should have been given to the patient, does not represent 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 Houston, Texas or similar communities.

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 3 and 7, 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
treatment of patients or 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 Finding of Fact 4, Respondent has violated Rule 573.52, PATIENT RECORD KEEPING, of the Board’s Rules of Professional Conduct, which requires that patient records contain, among other items, “names, dosages, concentration, and routes of administration of each drug administered . . .”

4. Based on Finding of Fact 3, 4 and 7 and Conclusions of Law 1 through 3, 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.

5. 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:
   (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 a civil penalty.

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

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Brian Poteet, D.V.M., be OFFICIALLY 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, Findings of Fact and Conclusions of Law herein set forth, 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.

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.

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

I, BRIAN POTEET, 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.

[Signature]

Brian Poteet, D.V.M. 

[Signature] 

Date: May 27, 2003
Docket No. 2003-24
Brian Potteet, D.V.M.
Page 5

STATE OF TEXAS  §
COUNTY OF  HARRIS  §

BEFORE ME, on this day, personally appeared Brian Potteet, 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 27 day of  MAY  , 2003.

Linda S. Smith
Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the  day of , 2003.

J. Lynn Lawhon, D.V.M., President