DOCKET NO. 2001-02

IN THE MATTER of the LICENSE OF

LELAND A. PROWSE III, D.V.M. VETERINARY MEDICAL EXAMINERS

$ TEXAS STATE BOARD OF

AGREED ORDER

On this the 15th day of February, 2001, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of Leland A. Prowse III, D.V.M. (Respondent). Pursuant to Section 801.408, Texas Occupations Code, and Board Rule 575.27, an informal conference was held on September 28, 2000. The Respondent appeared at the conference without counsel. The Board was represented at the informal 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 Agreed 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. Leland A. Prowse III, D.V.M., is a veterinarian licensed by the Board to practice veterinary medicine in the state of Texas under license number 3304. Respondent is not subject to prior disciplinary action by the Board.

2. The Board has jurisdiction over the subject matter and Respondent. Respondent has received all notice which may be required by law and by the Board Rules. All jurisdictional requirements have been satisfied.

3. Testimony in Trial Court Cause No. B-99-1196-CV-C, Grey Lyn Hatfield v. Charles D. Hatfield, in the District Court, 343 Judicial District, Bee County, Texas, indicated that on at least one occasion the Respondent provided his daughter with three Librium pills in response to her request for medication to reduce her shaking and nervousness.
4. In the same proceeding, Grey Lyn Hatfield testified under oath that the Respondent had in the past provided her “a bunch of samples” of an anti-depressant Paxil. Medical records from Grey Lyn Hatfield’s physician dated December 28, 1998 indicated that Dr. Prowse had “started her on Paxil 10 mg two days ago.”

5. A Patient Medical Expenses Report dated 02-Oct-99 from the HEB Pharmacy #0270 in Corpus Christi, Texas contains the following prescription notations for “Greylyn Hatfield”:

   8/24/98 6782729 28 TAB ORTHO NOVUM 7/7/1-7 28 00062-1781-15 Dr. Prowse
   10/19/98 6782729 28 TAB ORTHO NOVUM 7/7/1-7 28 00062-1781-15 Dr. Prowse

Dr Prowse is listed as the Prescriber Name. Records of Grey Lny Hatfield’s regular pharmacy (Albertson’s Pharmacy 4035) 01/01/97 through 10/07/99 indicate that Grey Lyn Hatfield’s regular monthly prescriptions of Ortho Novum were not filled by Albertson’s Pharmacy in August and October, 1998.

6. The Respondent on several occasions prescribed medications for the Hatfields’ dogs. Among these were prescriptions for sulameth/trimethoprim 800, pseudo eph/guaifen er tablets, erythromycin ointment, gentamicin, and claritin 10mg tablets. No patient records were kept for the animals to reflect prescription of those medications.

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. Rule 573.60 - Prohibition Against Treatment of Humans, of the Board’s Rules of Professional Conduct (22 TAC §573.60) states that “a veterinarian shall not provide care and treatment of humans including dispensing prescription medication for personal use by a human.”

3. Based on Findings of Fact 3 through 5, Dr. Prowse has violated Rule 573.60 of the Board’s Rules (22 TAC §573.60).

4. Rule 573.52 - Patient Record Keeping, of the Board’s Rules of Professional conduct (22 TAC §52) requires that individual records must be maintained at the veterinarian’s place of business and include the name and address of the owner (client); the dates of patient visits; patient
Leland A. Prowse III, D.V.M.
Agreed Order 2001-02
Page 3

history; names, dosages, concentration, and routes of administration of each drug prescribed, administered and/or dispensed; and other details to substantiate the examination, diagnosis, and treatment provided to the patient.

5. Based on Findings of Fact 6, Dr. Prowse has violated Rule 573.52 of the Board's Rules (22 TAC §573.52)

6. Based on Conclusions of Law 3 and 5, 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 Conclusion of Law 6, Respondent is subject to imposition of an civil penalty by the Board:

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:

   (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 Leland A. Prowse III, D.V.M., be REPRIMANDED.

The Board further ORDERS that Leland A. Prowse III, D.V.M., pay a civil penalty of SEVEN HUNDRED FIFTY DOLLARS ($750.00), payable within forty-five (45) days of the date of this ORDER.

The Board further ORDERS that Leland A. Prowse III, D.V.M., take and pass the Board's Jurisprudence Examination within forty-five (45) days of the date of this ORDER.

The Board further ADOPTS the following terms and conditions:

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 is entitled to be represented by an attorney of Respondent's choice at his expense.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR 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 CONSTITUTION 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 date of this Agreed Order shall be the date it is adopted by the Texas Board of Veterinary Medical Examiners.

I, LELAND A. PROWSE III, 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.

LELAND A. PROWSE III
Respondent

11/20/2000
DATE
Leland A. Prowse III, D.V.M.
Agreed Order No. 2001-02
Page 5

STATE OF TEXAS
COUNTY OF Bee

BEFORE ME, on this day, personally appeared Leland A. Prowse III, D.V.M., known to me to be the person whose name is subscribed to the foregoing Agreed Order, and acknowledged to me that he executed the same for the purposes stated therein.

Given under the hand and seal of office this 20th day of November 2000

ORALIA KESSEL
NOTARY PUBLIC
STATE OF TEXAS
My Commision Expires 1-28-2001

Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 15th day of February 2001

J. LYNN LAWHON, D.V.M.
President