DOCKET NO. 1999-15

IN THE MATTER OF THE LICENSE OF JOHN M. REVERE, D.V.M. $ TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS $

AGREED ORDER

On this the 16th day of June, 1999, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board"), the matter of the license of John M. Revere, D.V.M., (Respondent). Pursuant to the Veterinary Licensing Act (Act) § 18F and Board Rule 575.27, Respondent appeared at an Informal Conference held on May 6, 1999, in response to a letter of invitation from the Board. The Board was represented at the Informal Conference by the 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 understanding of the alleged violations and the adequacy and sufficiency of the notice provided to him.

Upon 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. John M. Revere, D.V.M., is a veterinarian licensed by the Board to practice veterinary medicine in the state of Texas under license number 5802, 1999 renewal certificate number 0459. Respondent is not subject to prior disciplinary action by the Board.

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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. On or about July 11, 1998, Arnold Guardiola of Houston, Texas, presented his five month old male Pit Bull dog "Gringo" to John M. Revere, D.V.M., at the Low Cost Pet Clinic (Fulton Animal Clinic) in Houston, Texas, for an ear trim. Dr. Revere performed the surgery and the dog was released.

4. On or about July 27, 1998, Mr. Guardiola called the Low Cost Pet Clinic and spoke to "Dr. Garza" concerning an ear infection diagnosed at another clinic. On or about that same day Mr. Guardiola presented "Gringo" to "Dr. Garza" at the Low Cost Pet Clinic. "Dr. Garza" examined the dog. Mr. Guardiola believed "Dr. Garza" to be a licensed veterinarian. "Dr. Garza" was referred to as 'Dr. Garza' by the clinic staff.

5. The records of licensed veterinarians maintained by the Board do not contain an entry for a "Dr. Garza" at a Houston area location.

6. The patient records of "Gringo" submitted by Dr. Revere do not contain patient identity, temperature, and laboratory analysis. The patient weight entries are incorrect.

7. On or about May 29, 1998, Lori Banuelos of Houston, Texas, presented her mixed breed Chow dog, "Chewbacha" to the Low Cost Pet Clinic (Fulton Animal Clinic) in Houston, Texas, for treatment of a skin condition on the dog’s left ear. The presentation of "Chewbacha" was handled by Juan Carlos, who examined the dog, saw possible signs of mange and instructed the clinic staff to dip the dog in Mitaban. Dr. Revere had instructed the staff to institute a Mitaban dip as a off-label treatment and diagnostic procedure for sarcoptic mange.

8. On or about that day Ms. Banuelos believed Juan Carlos to be a licensed veterinarian.

9. The records of licensed veterinarians maintained by the Board do not contain an entry for a "Juan Carlos."

10. On or about that same day, "Chewbacha" was released to Ms. Banuelos. She was not told of any possible complications or given instructions to watch for any symptoms of complications. Ms. Banuelos was not told of and did not consent to any off-label treatment with Mitaban.

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11. The acts and/or failures to act alleged in paragraphs 7 and 10, and more specifically, but not limited to, the failure to warn the owner of possible complications of the dipping procedure and obtain informed consent regarding the off-label use of Mitaban, does not constitute the exercise of 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 community.

Conclusions of Law

1. Respondent is required to comply with the provision of the Act and Board Rules.
2. Section 14 (a)(5) of the Act authorizes the Board to revoke or suspend a license, impose a civil penalty, place a licensee on probation, or reprimand a licensee based upon findings that a licensee:

   (5) has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with law;

3. Board Rule 573.22 - Professional Standard of Humane Treatment, of the Rules of Professional Conduct, requires license holders to exercise 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 their community, or similar community.
4. Based on Findings of Fact 7, 10 and 11, Respondent has engaged in practices which violate the standards of professional conduct set out in Rule 573.22.
5. Board Rule 573.11 - Discouragement of Unauthorized Practice, of the Rules of Professional Conduct, provides that license holders are legally and professionally responsible for the unauthorized practice of veterinary medicine by unlicensed employees. Tex. Rev. Civ. Stat. Ann. art. 8890 §2 (2) (C) defines the practice of veterinary medicine to include “... the use of

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a title, words or letters to induce the belief that the person is legally qualified to perform . . . “
diagnosis and treatment.

6. Based on Findings of Fact 4, 5, 7, 8 and 9, Respondent has violated the standards of
professional conduct set out in Rule 573.11.

7. Board Rule 573.52 - Patient Record Keeping, of the Rules of Professional Conduct,
requires a license holder to maintain patient records on each patient that include patient
identity, temperature, weight and any laboratory analysis.

8. Based on Finding of Fact 6, Respondent has violated the standards of professional
conduct set out in Rule 573.52.

9. Based on Conclusions of Law 1 through 8, Respondent is subject to disciplinary action
by the Board under the Act §14(a)(5).

NOW THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:
Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that John
M. Revere, D.V.M., receive an OFFICIAL REPRIMAND under the following terms and condi-
tions:

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 Act or the Board Rules, may result in further disciplinary action.

4. Respondent shall submit ten (10) patient records each month of patients seen that
month, for a period of six months, this period beginning the day that this Agreed Order
is approved by the Board. The patient records shall be submitted to the Board in care
of Mike Carroll, Investigator.

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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 of 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 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 date of this Agreed Order shall be the date it is adopted by the Texas State Board of Veterinary Medical Examiners.

I, JOHN M. REVERE, 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 THIS ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

John M. Revere, D.V.M.
Respondent

S-21-99, 1999

STATE OF TEXAS
COUNTY OF HARRIS

BEFORE ME, on this day, personally appeared John M. Revere, D.V.M., known to me to be the person whose name is subscribed to the foregoing Agreed Order, and acknowledged to me

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that he executed the same for the purposes stated therein.

Given under the hand and seal of office this 21ST day of MAY, 1999.

[Signature]
Notary Public

ANTONIO GARZA
Notary Seal

This agreed order has been entered between John M. Revere, D.V.M. and Ron Allen, the Executive Director of the Texas State Board of Veterinary Medical Examiners, in concurrence with the Board Secretary. It is presented to the Board as a recommendation only.

RON ALLEN
Executive Director, TSBVME

DATE June 1, 1999

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 11th day of June, 1999.

[Signature]
ROBERT I. HUGHES, JR., D.V.M.
President

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DOCKETED COMPLAINT NO. 1999-13

TEXAS STATE BOARD OF VETERINARY § TEXAS VETERINARY MEDICAL
MEDICAL EXAMINERS § LICENSE NO. 5802
vs. § 1999 RENEWAL CERTIFICATE
JOHN M. REVERE, D.V.M. § NUMBER 0459

COMPLAINT AFFIDAVIT

Before me, the undersigned authority, a Notary Public in and for Texas, on this day personally appeared Mike Carroll, who after being duly sworn, did deprecate and say:

On or about June 15, 1998, Mike Carroll, being an employee of the Texas State Board of Veterinary Medical Examiners, did in the course of such employment, make certain investigations into the professional conduct of one John M. Revere, D.V.M., Low Cost Pet Clinic, 407 North Loop East, Houston, Texas, 77022, Veterinary License Number 5802, 1999 Renewal Certificate Number 0459, a practitioner of veterinary medicine in the State of Texas. As an employee of the Texas State Board of Veterinary Medical Examiners, I, Mike Carroll, do hereby present the following complaint against John M. Revere, DVM.

I.

John M. Revere, D.V.M., is a veterinarian licensed by the Board to practice veterinary medicine in the state of Texas under license number 5802, 1999 renewal number 0459. Respondent is not subject to prior disciplinary action by the Board.

II.

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.

III.

On or about July 11, 1998, Arnold Guardiola of Houston, Texas, presented his five month old male Pit Bull dog “Gringo” to John M. Revere, D.V.M., at the Low Cost Pet Clinic (Fulton Animal Clinic) in Houston, Texas, for an ear trim. Dr. Revere performed the surgery and the dog was released.

IV.

On or about July 27, 1998, Mr. Guardiola called the Low Cost Pet Clinic and spoke to “Dr. Garza” concerning an ear infection diagnosed at another clinic. On or about that same day Mr. Guardiola presented “Gringo” to “Dr. Garza” at the Low Cost Pet Clinic. “Dr. Garza” examined the dog. Mr. Guardiola believed “Dr. Garza” to be a licensed veterinarian. “Dr. Garza” was referred to as ‘Dr. Garza’ by the clinic staff.
V.
The records of licensed veterinarians maintained by the Board do not contain an entry for a "Dr. Garza" at a Houston area location.

VI.
The patient records of "Gringo" submitted by Dr. Revere do not contain patient identity, temperature, and laboratory analysis. The patient weight entries are incorrect.

VII.
On or about May 29, 1998, Lori Banuelos of Houston, Texas, presented her mixed breed Chow dog, "Chewbacca" to the Low Cost Pet Clinic (Fulton Animal Clinic) in Houston, Texas, for treatment of a skin condition on the dog's left ear. The presentation of "Chewbacca" was handled by Juan Carlos, who examined the dog, saw possible signs of mange and instructed the clinic staff to dip the dog in Mitaban. Dr. Revere had instructed the staff to institute a Mitaban dip as an off-label treatment and diagnostic procedure for sarcoptic mange.

VIII.
On or about that day Ms. Banuelos believed Juan Carlos to be a licensed veterinarian.

IX.
The records of licensed veterinarians maintained by the Board do not contain an entry for a "Juan Carlos."

X.
On or about that same day, "Chewbacca" was released to Ms. Banuelos. She was not told of any possible complications or given instructions to watch for any symptoms of complications. Ms. Banuelos was not told of and did not consent to any off-label treatment with Mitaban.

XI.
The acts and/or failures to act alleged in paragraphs VII through X, and more specifically, but not limited to, the failure to warn the owner of possible complications of the dipping procedure and obtain informed consent regarding the off-label use of Mitaban, does not constitute the exercise of 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 community.

XII.
Respondent is required to comply with the provisions of the Act and Board.
XIII.

Section 14 (a) (5) of the Act authorizes the Board to revoke or suspend a license, impose a civil penalty, place a license on probation, or reprimand a licensee based upon findings that a licensee:

.... "(5) has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with law;"

XIV.

Board Rule 573.22 - Professional Standard of Humane Treatment, of the Rules of Professional Conduct, requires license holders to exercise 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 profession in good standing in their community, or similar community.

XV.

Based on paragraphs VII, X and XI, Respondent has engaged in practices which violate the standards of professional conduct set out in Rule 573.22.

XVI.

Board Rule 573.11 - Discouragement of Unauthorized Practice, of the Rules of Professional Conduct, provides that license holders are legally and professionally responsible for the unauthorized practice of veterinary medicine by unlicensed employees. Tex. Rev. Civ. Stat. Ann. art. 8890 §2 (2) (C) defines the practice of veterinary medicine to include "... the use of a title, words or letters to induce the belief that the person is legally qualified to perform..." diagnosis and treatment.

XVII.

Based on paragraphs IV, V, VII, VIII and IX, Respondent has violated the standards of professional conduct set out in Rule 573.11.

XVIII.

Board Rule 573.52 - Patient Records Keeping, of the Rules of Professional Conduct, requires a license holder to maintain patient records on each patient that include patient identity, temperature, weight and any laboratory analysis.

XIX.

Based on paragraph VI, Respondent has violated the standard of professional conduct set out in Rule 573.52.
XX.

Based on paragraphs XII through XIX, Respondent is subject to disciplinary action by the Board under the Act § 14(a)(5).

ARTICLE 8890, SECTION 14

(a) . . . the Board may revoke or suspend a license, impose a civil penalty, place a person whose license has been suspended on probation, or reprimand a licensee . . . if it finds that a licensee:

(5) has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with the law;

The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the 14th day of May 1999.

Further, Affiant sayeth not.

Mike Carroll, Affiant

SUBSCRIBED and SWORN TO before me by the said Mike Carroll this the 14th day of May, 1999.

Charles A. Adkins, Notary Public
STATE OF TEXAS
My Comm. Exp. 06-01-2000

The foregoing Complaint is hereby filed and docketed with the Texas State Board of Veterinary Medical Examiners and styled Texas State Board of Veterinary Medical Examiners vs. John M. Revere, D.V.M. under Docketed Number 1999-15 this the 2nd day of June 1999.

Lynn Lawhon, D.V.M., Board Secretary
Texas State Board of Veterinary Medical Examiners