DOCKET NO. 2003-04

IN THE MATTER OF § TEXAS STATE BOARD OF

THE LICENSE OF §

SONYA SALDANA, D.V.M. § VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this the 13th day of February, 2002 came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of Sonya Saldana, D.V. M ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on November 19, 2002. The Respondent attended with 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 her understanding of the alleged violations and the adequacy and sufficiency of the notice provided to her.

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 May 12, 2001, Jon Hansen and his wife adopted a female Labrador Retriever ("Sadie") from the City of Rowlett Animal Services. On June 5, 2001, Mr. Hansen presented the dog to Sonya Saldana, D.V.M., Brookhaven Pet Clinic, Addison, Texas for a spay. Dr. Saldana noted the presence of a scar on the abdomen of the dog.

2. Dr. Saldana performed the surgery and attempted to locate the uterine horns and ovaries but was unsuccessful. She then closed the incision and recovery was uneventful. Several days later, Mr. Hansen returned "Sadie" to the clinic to have the sutures removed. Dr. Saldana did not inform the Hansens that a spay had not been performed. The Hansens were invoiced for a spay instead of exploratory surgery.

3. On July 20, 2001 the Hansens noticed blood spots on the carpet and found that the dog’s vaginal area was swollen and drops of blood were forming. Mr. Hansen presented "Sadie" to Jeffrey Ellis, Preston Park Animal Hospital, Dallas, Texas. Dr. Ellis examined the dog and told Mr. Hansen that the dog was in “full blown heat.” Dr. Ellis recommended that exploratory surgery be performed during the next heat cycle to remove any ovaries that might remain from
the previous spay.

4. On July 22, 2001, “Sadie” began crying and yelping and was unable to stand up. The Hansens took her to the Metroplex Veterinary Center, Irving, Texas, where she was seen by Melissa Diederich, D.V.M. Dr. Diederich found no unusual problems but confirmed that the dog was in heat.

5. On February 17, 2002, “Sadie” went into heat for the second time. On February 20, 2002, Mr. Hansen presented the dog to Dr. Ellis for exploratory surgery. Dr. Ellis found that the uterus and ovaries were intact.

6. The acts and/or failures to act specified in Findings of Fact 1 through 5, and more specifically, Dr. Saldana’s failure to successfully perform a routine spay on a large dog, do 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 Addison, Texas or in 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 2 and 6, 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 treating patients as 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 2, Dr. Saldana has violated Rule 573.26, HONESTY, INTEGRITY, AND FAIR DEALING, of the Board’s Rules of Professional Conduct, by not informing the Hansens that Dr. Saldana had not performed the spay as requested and for allowing the Hansens to be billed for the spay.

4. Based on Findings of Fact 2 and 6 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.
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 Sonya Saldana, 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 her understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law herein set forth, and agrees that she 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 her right to a formal hearing and any right to seek judicial review of this Agreed Order. Respondent acknowledges that she was 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, SONYA SALDANA, 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.

Sonya Saldana, D.V.M.  10-17-02
Date

STATE OF TEXAS
COUNTY OF Dallas

BEFORE ME, on this day, personally appeared Sonya Saldana, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that she executed the same for the purposes stated therein.

Given under the hand and seal of office this 17th day of December, 2002.

Francis Marion Ewing III
Notary Public

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

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