DOCKET NO. 2004-07

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

AGREED ORDER

On this the 19th day of February, 2004 came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of Michael Shelton, D.V. M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on January 12, 2004. 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. On October 14, 2002, Randi Lampson, Plano, Texas, presented her dog “Odie,” to Michael Shelton, D.V.M., Plano, Texas, because the dog had developed a skin rash on her head. Dr. Shelton visually examined the dog and made a presumptive diagnosis of sarcoptic mange and skin infection. He gave the dog an injection of Ivermectin and prescribed antibiotics. Ms. Lampson again presented “Odie” to Dr. Shelton on October 28th and November 25th. Dr. Shelton again prescribed antibiotics, added prednisone, and recommended a medicated shampoo, but did not perform skin scrapes on any of the visits. He also recommended to Ms. Lampson that if the dog’s condition did not improve, she could consult with a dermatology specialist.

2. On December 26th, Ms. Lampson presented “Odie” to the 11th Street Veterinary Hospital, Huntsville, Texas, where the dog was examined by Debra Akins, D.V.M., who was doing relief work at the clinic. Dr. Akins performed a skin scrape which showed that the dog had demodectic mange along with a secondary pyoderma and conjunctivitis. Oral antibiotics and antibiotic eye ointment were dispensed, and an amitraz dip was performed. Ms. Lampson indicated that she would follow up with additional amitraz dips when she returned to Plano. She was told by Dr. Akins that the prednisone prescribed by Dr. Shelton had encouraged the growth of the mites.
which caused the mange.

3. Upon returning to Plano, Ms. Lampson presented “Odie” to Marilyn Mitchell, D.V.M., Arbor Hills Pet Care Center, for continued treatment of the dog (January 10, 2003). Dr. Mitchell dispensed Cephalexin, Ketoconazole, Miconazole lotion, ear cleaner, and skin supplements, and continued the amitraz dips. Over the next few weeks, the dog’s condition improved substantially.

4. Dr. Shelton’s failure to use skin scrapings and properly diagnose and treat the patient, which led to extensive follow-up treatment by other veterinarians, 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 community in Plano, 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 1 through 4, 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 Findings of Fact 1 through 4 and Conclusions of Law 1 and 2, 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 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:
   
   (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 Michael Shelton, D.V.M., be INFORMALLY 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, and Findings of Fact and Conclusions of Law herein set forth herein, 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 not 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, MICHAEL SHELTON, 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.

Michael Shelton, D.V.M.  23JAN04
Date

STATE OF TEXAS  §
COUNTY OF  COLLIN  §

BEFORE ME, on this day, personally appeared MICHAEL SHELTON, 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 23rd day of JANUARY, 2004.

KAREN L. HALE
My Commission Expires November 18, 2007
Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 19th day of February, 2004.

Dee Pederson, D.V.M., President