DOCKET NO. 2012-64

IN THE MATTER OF § TEXAS BOARD OF

THE LICENSE OF § VETERINARY

KELLI SHOMETTE, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this the 24th day of July, 2013 came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Kelli Shomette, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.29, an informal conference was held on March 26, 2012. Respondent was not represented by 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. Respondent, Kelli Shomette, D.V.M. of Westgate Animal Hospital in Wylie, Texas, holds Texas veterinary License 7460.

2. The Board has jurisdiction over the subject matter and Respondent. Respondent received notice, which may be required by law and by the rules of the Board. All jurisdictional requirements have been satisfied under Tex. Occ. Code Ann. Title 4 (Act). By entering into this Agreed Order, Respondent waives any defect in the notice and any further right to notice and hearing under the Act; Tex. Gov't Code Ann. §§ 2001.051-.054; and the Rules of the Texas Board of Veterinary Medical Examiners (Board Rules) (22 Tex. Admin. Code, Chapter 575).

3. On April 28, 2011, Deborah Beckman presented an eight year old male Pekingese named "Dusty" to the Westgate Animal Hospital in Wylie, Texas for grooming. Due to "Dusty's" fractious nature, he was sedated prior to grooming by Respondent.

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4. The patient record for April 28, 2011 does not include “Dusty’s” weight, the concentration of the sedatives administered to “Dusty,” or any details to suggest that Respondent performed a physical examination on “Dusty” prior to administering the sedatives.

5. According to Respondent’s patient records for “Dusty,” Respondent administered “0.2 ml butorphanol/ 0.3 ml domitor IM.” Respondent later admitted that she actually used dexdomitor, rather than domitor.

6. The appropriate dosage for dexdomitor administered in combination with butorphanol is half of the label dose of dexdomitor with 0.2mg/kg butorphanol. Respondent’s patient records from earlier treatments show “Dusty” weighing approximately 17 pounds, or 7.76 kilograms. The label dosage for dexdomitor for a 17 pound dog is .29 ml of .5 mg/ml dexdomitor. Assuming that Respondent was using 10 mg/ml butorphanol and .5 mg/ml dexdomitor, the appropriate IM dosage for “Dusty” should have been .15 ml of butorphanol, and .15 ml of dexdomitor.

7. At some point following grooming, “Dusty” died. Respondent stated in the patient records that “Dusty” recovered from the sedation. The patient records also state that staff at the Westgate Animal Hospital heard coughing coming from the area where “Dusty” was caged at some point after he recovered from sedation sufficiently to stand, but neither Respondent nor her staff checked on “Dusty” at that time.

8. Eric Beckman arrived at the Westgate Animal Hospital to pick “Dusty” up at approximately 5:00 pm on April 28, 2011. When Mr. Beckman arrived, Respondent’s staff discovered that “Dusty” was dead in his cage. Respondent attempted to revive “Dusty,” but was unsuccessful.

9. Respondent told Mr. Beckman that “Dusty” had just died, but Mr. Beckman noted that “Dusty’s” body was already very cold to the touch.

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 9 above, Respondent has violated Rule of Professional Conduct 573.22, Professional Standard of Humane Treatment, by using an improper drug dosage for sedation and failing to monitor “Dusty” closely during his recovery from sedation.

3. Based on Findings of Fact 7 through 9 above, Respondent has violated Rule of Professional Conduct 573.10, Supervision of Non-Licensed Employees, by failing to ensure that her non-licensed employees monitored “Dusty” closely as he recovered from sedation.
4. Based on Findings of Fact 1 through 9, Respondent has violated Rule of Professional Conduct §73.52, Patient Record Keeping, by failing to record weight, the drugs administered, the concentration of drugs administered, and details to substantiate any physical examination done on “Dusty” prior to sedation.

5. Based on Findings of Fact 1 through 9 and Conclusions of Law 1 through 4, Respondent has violated Sections 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.

6. Based on Conclusions of Law 1 through 5, 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 an administrative penalty.

(d) In addition to other disciplinary actions authorized by this subchapter, the board may require a license holder who violates this chapter to participate in a continuing education program.

7. Based on Conclusions of Law 1 through 6, the Board may order the license holder to refund an amount not to exceed the amount a client paid to the license holder instead of or in addition to imposing an administrative penalty, under Section 801.408 of the Veterinary Licensing Act, Texas Occupations Code.
NOW, THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Respondent is FORMALLY REPRIMANDED.

In addition, the Board ORDERS that Respondent complete an additional SIX (6) hours of continuing education, with THREE (3) hours in recordkeeping and THREE (3) hours in anesthesia, within one year of the date of this order. Documentation of the completion of the continuing education penalty shall be received by thirty (30) days following the end of the period to receive the continuing education required for this Order. If Respondent fails to provide documentation of completion within forty-five (45) days from the end of the period to receive the continuing education, Respondent's license shall be suspended until the continuing education penalty is completed and documentation is received by the Board.

The Board further ORDERS that within 30 days of the date of this Order Respondent pay to the client RESTITUTION of any amount paid for veterinary services on April 28, 2011. If Respondent fails to either pay the restitution or send notification to the client of cancellation of the account payable, whichever is applicable, within 30 days of the date of this Agreed Order, enforcement action will be taken.

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 Agreed 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 set forth herein, 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

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seek judicial review of this Agreed Order. Respondent acknowledges that she 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. 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, KELLI SHOMETTE, 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.

KELLI SHOMETTE, D.V.M.  5-3-12

STATE OF TEXAS  
COUNTY OF Dallas

BEFORE ME, on this day, personally appeared Kelli Shomette, 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 this Office this 3rd day of May 2012

AHPLE TARDY  
Notary Public, State of Texas  
My Commission Exp. 01-06-2013

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 24th day of July 2012

Bud E. Alldredge, Jr., D.V.M., President

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