DOCKET 2001-06

IN THE MATTER § TEXAS STATE BOARD OF

OF THE LICENSE OF § VETERINARY MEDICAL EXAMINERS

THOMAS J. SKINNER, D.V.M. §

AGREED ORDER

On this the 21st day of June, 2001 came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of Thomas J. Skinner, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on March 22, 2001. The Respondent did not attend. 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. On May 30, 2000 the daughter of Kathleen Shields, Ingleside, Texas, ("Complainant") presented four puppies to Thomas J. Skinner, D.V.M., Aransas Animal Clinic, Aransas Pass, Texas for vaccinations. One puppy, "Cannable", appeared to be very thin and sick. Dr. Skinner advised the Complainant’s daughter to fatten the puppies up before bringing them back for shots.

2. Dr. Skinner noticed some diarrhea in the carrying box. Dr. Skinner said that he examined "Cannable", took its temperature (96 degrees) and weight, and administered Amoxicillin to all the puppies. However, Dr. Skinner’s patient records do not indicate which puppy or puppies were checked for temperature, weighed and given the medication, or a diagnosis to support the Amoxicillin. Dr. Skinner did not administer or prescribe further treatment before releasing the puppies because he felt that he needed additional treatment authorization from the Complainant and not her daughter.
3. Approximately two hours after the puppies were sent home by Dr. Skinner, “Cannable” started vomiting black liquid. The puppy was presented by the Complainant to Rick Broussard, D.V.M., at the Ingleside Animal Hospital in a comatose state near death with a temperature of 98 degrees. Dr. Broussard diagnosed the puppy with Giardia Lamblia and the puppy died later that night. The Complainant informed Dr. Skinner of the diagnosis and the death of the puppy. Dr. Skinner returned the office visit fee to the Complainant.

4. The acts and/or failures to act alleged in Findings of Fact 1, 2, and 3 do 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 Aransas Pass, Texas or similar communities. Specifically:

   a. Although Dr. Skinner did not have specific authority to treat the puppies, he began a treatment of antibiotics anyway. “Cannable’s” temperature of 96 degrees and the presence of diarrhea should have alerted Dr. Skinner that further diagnosis and treatment was necessary. He should have asked the Complainant’s daughter for authorization or have held the puppies until Ms. Shields was available to give authorization some two hours later.

   b. A thorough examination of “Cannable” and the application of appropriate diagnostic tools would have enabled an average veterinarian to make the diagnosis of Giardia Lamblia.

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 Finding of Fact 2, Respondent has violated Rule 573.52, PATIENT RECORD KEEPING, of the Board’s Rules of Professional Conduct, which requires patient records to contain a patient’s identity and other details necessary to substantiate the examination, diagnosis, and treatment provided.

3. 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 are 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.
4. Based on Findings of Fact 1 through 4 and Conclusions of Law 1, 2 and 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.

5. Based on Conclusions of Law 1 through 4, Respondent is subject to imposition of a civil penalty by the Board under the 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:

(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 Thomas J. Skinner, D.V.M., be REPRIMANDED.

The Board further ORDERS that the Respondent pay a civil penalty of $500, payable within 45 days 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 has voluntarily represented himself.

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 Board of Veterinary Medical Examiners.

I, THOMAS J. SKINNER, 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.

Thomas J. Skinner, D.V.M.

DATE

STATE OF TEXAS
COUNTY OF SAN PATRICIO

BEFORE ME, on this day, personally appeared Thomas J. Skinner, D.V.M., known to me as 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 17th day of April, 2001

Debra Kullman
Notary Public
SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 21st day of June, 2001.

J. Lynn Lawhorn, D.V.M.