DOCKET NO. 2008-79

IN THE MATTER OF § TEXAS BOARD OF
THE LICENSE OF § VETERINARY
MARGARET STUMMER, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this the 16th day of October, 2008, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Margaret Stummer, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on July 29, 2008. The Respondent waiver her right to an informal conference and did not appear. 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


2. Dr. Stummer examined “Chase.” Dr. Stummer was concerned about “kennel cough.” Dr. Stummer dispensed antibiotics and cough medicine. On December 8, 2007, “Chase” returned and was examined for an elevated temperature, harsh lung sounds and swollen tonsils. Diagnostic tests were performed including radiographs. Dr. Stummer identified a suspicious opacity in the right caudal lung lobe suggesting the possibility of cancer. There is no notation in the medical records on December 8, 2007 of a differential diagnosis of cancer, only an addendum on January 2, 2008. Dr. Stummer dispensed additional antibiotics and cough medicine. On December 17, 2007, Ms. McMillian presented “Chase” to Dr. Stummer, as
“Chase’s” condition had further deteriorated and “Chase” had labored breathing. Dr. Stummer diagnosed “Chase” with bacterial pneumonia. Later that day, Ms. McMillian telephoned Dr. Stummer to inform her that “Chase’s” health was failing. Dr. Stummer recommended “Chase” be placed on oxygen at home, however the clinic was unable to assist with the equipment. Ms. McMillian later in the evening took “Chase” to Dr. Nicole Dockrey of the Animal Emergency Clinic in Round Rock, Texas. Dr. Dockrey, after a thorough examination and diagnostics, determined “Chase” had lung cancer. Dr. Clifford Peck of Forest Creek Animal Hospital in Round Rock, Texas confirmed the cancer diagnosis on December 18, 2007. Due to the advance stage of the cancer, “Chase” was euthanized.

3. Dr. Stummer’s failure to diagnose and treat cancer in “Chase,” her failure to change antibiotics on December 8, 2007 if the diagnosis was bacterial pneumonia, and there was no response to the current antibiotics, and failure to offer a referral on December 17, 2007 when oxygen was suggested as treatment 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 profession in good standing in Georgetown, Texas or similar communities. Dr. Stummer’s failure to diagnose and treat cancer in “Chase,” her failure to change antibiotics on December 8, 2007 if the diagnosis was bacterial pneumonia, and there was no response to the current antibiotics, and failure to offer a referral on December 17, 2007 when oxygen was suggested led to additional pain and suffering and delayed appropriate treatment for “Chase.”

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 3, 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 3 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.

4. 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 an administrative 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 Margaret Stummer, D.V.M., be FORMALLY 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 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 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. 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, MARGARET STUMMER, 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.

[Signature]
Margaret Stummer, D.V.M.

Date 8/8/08

STATE OF TEXAS §
COUNTY OF WILLIAMSON §

BEFORE ME, on this day, personally appeared MARGARET STUMMER, 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 8th day of August, 2008.

[Seal]
D.J. HARTGROVE
Notary Public
State of Texas
My Commission Expires September 04, 2009

Agreed Order 2008-79
Margaret Stummer, D.V.M.
SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 16th day of OCT, 2008.

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