DOCKET NO. 2000-11

IN THE MATTER

OF THE LICENSE OF

ROBERT P. THONI, D.V.M.

§ TEXAS STATE BOARD OF

§ VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this the 8th day of June, 2000, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board"), the matter of the license of Robert P. Thoni, D.V.M. (Respondent). Pursuant to Section 801.408, Texas Occupations Code, and Board Rule 575.27, Respondent appeared at an informal conference on May 2, 2000, in response to a letter of invitation from the Board. 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. Robert P. Thoni, D.V.M., is a veterinarian licensed by the Board to practice veterinary medicine in the state of Texas under license number 4892. Respondent is not subject to prior disciplinary action by the Board.

2. The Board has jurisdiction over the subject matter and Respondent. Respondent has received all notice which may be required by law and by the Board Rules. All jurisdictional requirements have been satisfied.

3. On December 6, 1999 the Board received a complaint against Dr. Lewayne Hames, a chiropractor in Tyler, Texas. The complainant, Jackie Hollingsworth, stated she was a baggage handler at Sea-Tac Airport in Seattle, Washington. While unloading baggage, she was struck by a sharp object protruding from Dr. Hames’s bag. Upon examination of the inside of the bag,
she discovered that she had been struck by a used syringe. The bag also contained two bottles of Xylazine HCL Injection (Rompun) and other syringes that appeared to be unused.

4. Investigation revealed that Dr. Hames had received Xylazine from Dr. Marcus R. Alexander, North Tyler Veterinary Clinic, Tyler, Texas and Dr. Robert P. Thoni, Kilgore Veterinary Associates, Kilgore, Texas for use in the musculoskeletal manipulation (MSM) of horses. Based on this information, the Board opened a complaint against Dr. Thoni for alleged violations of the Veterinary Licensing Act, Chapter 801, Texas Occupations Code, and the Board’s Rules of Professional Conduct.

5. Dr. Thoni stated to investigators that he had known Dr. Hames for the past three years and had used Dr. Hames’ MSM in the treatment of horses in his practice. Since the use of tranquilizers is sometimes necessary when using MSM on horses, he instructed Dr. Hames in the use of Rompun, its administration, dosages, side effects and uses. On July 5, 1999 Dr. Thoni prescribed a 50 ml bottle of Rompun to Dr. Hames. He did not place a dispensing label on the Rompun. There is no entry of the prescription in the patient records for Dr. Hames.

6. Dr. Thoni verbally instructed his clients that MSM is an alternative form of veterinary medicine, but he did not get a signed acknowledgment form from the clients.

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 4 and 5, Dr. Thoni has violated Rule 573.40 - Labeling of Medications Dispensed, of the Board’s Rules of Professional Conduct because he failed to “affix labels to all unlabeled containers containing any medication dispensed . . .”

3. Based on Finding of Fact 6, Dr. Thoni has violated Rule 573.12 - Alternate Therapies - Chiropractic and other Forms of Musculoskeletal Manipulation, of the Board’s Rules of Professional Conduct, because he failed to obtain “a signed acknowledgment by the owner or caretaker of the patient that chiropractic or MSM is considered by Texas law to be an alternate (nonstandard) therapy.”

4. Based on Finding of Fact 5, Dr. Thoni has violated Rules 573.52 - Patient Record Keeping, of the Board’s Rules of Professional Conduct because he did not include in his patient records the “(1) name and address of client; (2) patient identity; (3) patient history; (4) dates of visits; . . . (11) other details necessary to substantiate the examination, diagnosis, and treatment
provided, and/or surgical procedure performed.”

5. Based on Finding of Fact 5, Dr. Thoni has violated Rule 573.41 - Use of Prescription Drugs, of the Board’s Rules of Professional Conduct because he prescribed or dispensed a “prescription drug without first having established a veterinarian/client/patient relationship and determined that such prescription drug is therapeutically indicated for the health and/or well being of the animal(s).”

4. Based on Conclusions of Law 1 through 5, 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 6, respondent is subject to imposition of an administrative penalty by the Board:

801.451. IMPOSITION OF ADMINISTRATIVE PENALTY. The board may impose an administrative penalty on a person . . . who violates this chapter or a rule adopted or order issued under this chapter.

NOW, THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Robert P. Thoni, D.V.M., be REPRIMANDED.

The Board further ORDERS that the Respondent take and pass the Board’s Jurisprudence Examination within forty-five (45) days of the Board’s approval of this Agreed 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, ROBERT P. THONI, 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.

[Signature]
Robert P. Thoni, D.V.M.
Respondent

STATE OF TEXAS
COUNTY OF Gregg

BEFORE ME, on this day, personally appeared Robert P. Thoni, D.V.M., known to me to be
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 31 day of May, 2000

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL
EXAMINERS on this the 31st day of June, 2000.