DOCKET NO. 2008-61

IN THE MATTER OF § TEXAS BOARD OF

THE LICENSE OF § VETERINARY

JESSICA R. TODIA, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this the 14th day of July, 2008, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Jessica R. Todcia, D.V.M. ("Respondent"). Pursuant to Section 801.2056, Texas Occupations Code, a committee of the Board’s staff met on April 9, 2008 to consider alleged violations of the Veterinary Licensing Act and the Board’s rules by Respondent.

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 their understanding of the alleged violations and the adequacy and sufficiency of the notice provided to them.

Upon the recommendation of the Staff 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 August 17, 2007, Amber Gurley of Midland, Texas, presented “Roscoe”, a two year old Beagle to Jessica R. Todcia, D.V.M., Midland, Texas, of A to Z Veterinary Clinic (AZV) for unknown injuries sustained during a house burglary.

2. Dr. Todcia treated “Roscoe” on August 17th and the morning of August 18, 2007. Dr. Todcia’s office informed Ms. Gurley that without a deposit for services the dog could be treated and adopted out. Ms. Gurley was unable to pay for the services at that time. Ms. Gurley, on August 18, 2007, called the Midland Sheriff’s Department and asked for a deputy to be dispatched to the clinic due to Dr. Todcia’s failure to release “Roscoe.” AZV employees told the deputies that Ms. Gurley had relinquished “Roscoe” to the AZV clinic. No action was taken by the deputies.

3. On or about September 16, 2007, TBVME called Dr. Todcia and advised her to release “Roscoe” back to Ms. Gurley. On September 18, 2007 Ms. Gurley was allowed to pick up
“Roscoe” and receive “Roscoe’s” medical records, but only after being required to sign a release form that included the statement: “I will not pursue any action past, present, or future with regards to this incident through civil courts, criminal courts, or the state board of veterinary medical examiners. I also agree to drop any pending actions in the above mentioned areas.” Ms. Gurley signed the statement and took “Roscoe.”

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 2 and 3, Respondent has violated Rule 573.26, HONESTY, INTEGRITY, AND FAIR DEALING, of the Board’s Rules of Professional Conduct, which requires veterinarians to conduct their practice with honesty, integrity, and fair dealing to clients.

3. Based on Findings of Fact 2 and 3, Respondent has violated Rule 573.52, PATIENT RECORD KEEPING, of the Board’s Rules of Professional Conduct, which states a veterinarian may not refuse a request for copies because payment in full for veterinary care has not been received from the client.

4. Based on Finding of Fact 2 and 3 and Conclusions of Law 1 through 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 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.

6. Based on Conclusions of Law 5, Respondent may be disciplined in the manner set out in Section 801.451, IMPOSITION OF ADMINISTRATIVE PENALTY, of the Veterinary Licensing Act, which authorizes an administrative penalty for violations of the Act and Board rules, and in the manner set out in Section 801.401 DISCIPLINARY POWER OF BOARD.

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 be FORMALLY REPRIMANDED.

The Board ORDERS that Respondent pay, within 45 days of the date of this Order, an ADMINISTRATIVE PENALTY of FIVE HUNDRED DOLLARS ($500.00). If Respondent fails to pay the administrative penalty within 45 days of the date of this Order, Respondent’s license shall be suspended until the penalty is paid.

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 their understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law herein set forth herein, and agrees that they 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 their right to a formal hearing and any right to seek judicial review of this Agreed Order. Respondent acknowledges that they 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, JESSICA R. TODIA, 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]
Jessica R. Todia, D.V.M.

5-15-08
Date

STATE OF TEXAS
COUNTY OF [County]

BEFORE ME, on this day, personally appeared JESSICA R. TODIA, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that they executed the same for the purposes stated therein.

Given under the hand and seal of office this 15th day of May, 2008.

[Notary Public Stamp]

Notary Public

Agreed Order 2008
Jessica R. Todia, D.V.M.
SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 19th day of June, 2008.

[Signature]

Bud E. Allwardt, D.V.M.

Agreed Order 2008-61
Jessica R. Todia, D.V.M.