DOCKET NO. 2004-11

IN THE MATTER OF § TEXAS STATE BOARD OF

THE LICENSE OF § VETERINARY MEDICAL EXAMINERS

GLENN E. TOLLE, D.V.M. §

AGREED ORDER

On this the 17th day of June, 2004, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of Glenn E. Tolle, D.V. M. ("Respondent") Pursuant to Section 801.408, Texas Occupations Code, and Board Rule 575.27, an informal conference was held on April 13, 2004. Respondent appeared without 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 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 July 10, 2003, the Board received a complaint from Laura Gill, Denton, Texas. The complaint alleged that on or about December 10, 2002, Licia Callahan, a veterinary technician with the Pilot Point Veterinary Hospital (PPH), Pilot Point, Texas, delivered a bottle of Beuthanasia to Ms. Gill. The bottle contained a label from the PPH. Ms. Callahan told Ms. Gill to euthanize several of Ms. Callahan’s cats that showed signs of an upper respiratory infection. The cats were not seen by a veterinarian. Glenn Tolle, D.V.M., owner of the PPH, had no knowledge that the Beuthanasia had been removed from his clinic.

2. On January 6, 2003, Ms. Gill received a certificate of veterinary inspection from Ms. Callahan for Ms. Gill’s horse “Copperhead.” The certificate was signed by Dr. Tolle, but Dr. Tolle did not see the Coggins test results from the horse prior to signing the certificate.

3. Sometime last year, Doug David, the owner of a feed store, called Jeri Riles, D.V.M., to ask for help with some sick kittens that had been recently neutered. Mr. David reported that Ms. Callahan had performed the neuters. Ms. Callahan is not a licensed veterinarian. Dr. Riles reported the matter to Dr. Tolle, who assured Dr. Riles that Ms. Callahan’s practices would
cease. Dr. Tolle did not know that Ms. Callahan had performed neuters and never authorized her to do so.

4. An examination of the controlled substances record for the Beuthanasia shows that Dr. Tolle failed to record the dates of acquisition and quantity purchased, and failed to keep the balance on hand and record the diagnosis for the amounts dispensed.

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 573.24, ISSUANCE OF CERTIFICATES THROUGH DIRECT KNOWLEDGE ONLY, of the Board’s Rules of Professional Conduct, which prohibits a veterinarian from issuing any certificate attesting to the physical condition of an animal without having personally examined the individual animal and knowing, by actual inspection and appropriate tests, that the animal meets the requirements for issuance of the certificate.

3. Based on Finding of Fact 1, Respondent has violated Rule 573.61, MINIMUM SECURITY FOR CONTROLLED SUBSTANCES, of the Board’s Rules of Professional Conduct, by failing to establish adequate security to prevent the diversion of controlled substances.

4. Based on Finding of Fact 4, Dr. Tolle has violated Rule 573.50, CONTROLLED SUBSTANCES RECORD KEEPING FOR DRUGS ON HAND, of the Board’s Rules of Professional Conduct, by failing to keep the required information in the controlled substances records.

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

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 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 Glenn Tolle, D.V.M., be FORMALLY REPRIMANDED.

The Board further ORDERS that Respondent pay a CIVIL PENALTY of ONE THOUSAND DOLLARS ($1000.00), payable within 45 days of the date of this Order. If Respondent fails to pay the civil penalty within 45 days of the date of this Order, Respondent’s license shall be suspended until the civil penalty is paid.

The Board further ORDERS that Respondent take and pass the Board’s jurisprudence examination within 45 days of the date of this Order. If Respondent fails to take and pass the jurisprudence examination within 45 days of the date of this Order, Respondent’s license shall be suspended until Respondent does take and pass the examination. Respondent may not re-take the examination any more frequently than 10 working days from the date of his last sitting for the examination. Should Respondent engage in the practice of veterinary medicine when under suspension, he will be subject to immediate disciplinary action.

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 his understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law herein set forth herein, 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 waived representation 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, GLENN TOLLE, 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.

Glenn Tolle, D.V.M.  
5/24/04

STATE OF TEXAS

COUNTY OF

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

Given under the hand and seal of office this 24th day of May, 2004

CYNTHIA M. DUNN  
MY COMMISSION EXPIRES  
MAY 19, 2007

Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 17th day of June, 2004.

Dee A. Pederson, D.V.M., President