DOCKET NO. 2002-51

IN THE MATTER OF § TEXAS STATE BOARD OF

THE LICENSE OF §

KARL J. TOTH, D.V.M. § VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this the 17th day of October, 2002 came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of Karl J. Toth, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on July 25, 2002. The Respondent attended 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 August 13, 2001 Ms. J’Lynn Barrett, Austin, Texas presented her 12-year old female Golden Retriever “Sheba” to Karl J. Toth, D.V.M., Burnet Road Animal Hospital, Austin, Texas because the dog was bleeding profusely and discharging pus from the vaginal area. Dr. Toth told Ms. Barrett that the dog should be spayed. Ms. Barrett told Dr. Toth that she wanted to talk the matter over with her husband before authorizing further treatment of the dog. Later that same day, Ms. Barrett telephoned Dr. Toth and told him that they had decided to euthanize “Sheba” and presented the dog to Dr. Toth for the procedure. Ms. Barrett signed the paperwork to euthanize the dog and left the clinic.

2. On August 16, Dr. Toth telephoned Ms. Barrett and informed her that he had elected not to euthanize “Sheba” but instead had spayed her and had contacted an animal rescue organization to adopt “Sheba.” He asked for Ms. Barrett’s permission to release the dog for adoption. Ms. Barrett was shocked to hear that Dr. Toth had not followed her instructions. On August 17, Ms. Barrett again talked with Dr. Toth and authorized the release of “Sheba” to the rescue
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 1 and 2, Dr. Toth has violated Rule 573.20, RESPONSIBILITY FOR ACCEPTANCE OF MEDICAL CARE, of the Board’s Rules of Professional Conduct which requires that a client be advised of the treatment to be provided to the client’s pet.

3. Based on Findings of Fact 1 and 2, Dr. Toth has violated Rule 573.26, HONESTY, INTEGRITY AND FAIR DEALING, of the Board’s Rules of Professional Conduct which requires that veterinarians conduct their practice with honesty, integrity and fair dealing to clients in time and services rendered.

4. Based on Findings of Fact 1 and 2 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;
   (12) performs or prescribes unnecessary or unauthorized treatment.

4. 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 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 Karl Toth, D.V.M., be INFORMALLY 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 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 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, KARL TOTH, 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.
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8/19/02
Date

STATE OF TEXAS

COUNTY OF Williamson

BEFORE ME, on this day, personally appeared Karl Toth, 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 19th day of August, 2002.

ALVIN LEE PRICE II
Notary Public, State of Texas
My Comm. Expires 02-25-2006

Signed and entered by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 17th day of October, 2002.

Martin Garcia, D.V.M., President