DOCKET NO. 2015-112

IN THE MATTER OF § TEXAS BOARD OF

THE LICENSE OF § VETERINARY

AMY TURNER, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this the 21 day of June, 2015, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of AMY TURNER, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code, and Board Rule 575.29, an informal conference was held on April 20, 2015. Respondent did not attend the informal conference; however, she was represented by counsel, David Knight. 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. The Board has jurisdiction over the subject matter and Respondent. Respondent received notice, which may be required by law and by the rules of the Board. All jurisdictional requirements have been satisfied under Tex. Occ. Code Ann. Title 4 ("Act"). By entering into this Agreed Order, Respondent waives any defect in the notice and any further right to notice and hearing under the Act; Tex. Gov’t Code Ann. §§ 2001.051-.054; and the Rules of the Texas Board of Veterinary Medical Examiners ("Board Rules") (22 Tex. Admin. Code, Chapter 575).

3. On April 2, 2013, Misty Flannery presented her two year old pit bull ("Little Girl") to Foskey Veterinary Clinic (the "Foskey Clinic") and made an appointment to have Little Girl spayed. On April 4, 2013, Mrs. Flannery again presented Little Girl to the Foskey Clinic for
Respondent to perform the scheduled spay.

4. Approximately 15 months after the procedure, Little Girl had difficulty eating and seemed depressed. Mrs. Flannery took Little Girl to Bridge City Animal Clinic (the “Bridge City Clinic”) for an examination. Albert Pugh, D.V.M. examined Little Girl and felt something in her lower abdomen. He performed an x-ray and blood work. Dr. Pugh diagnosed Little Girl with kidney failure and an infection. He stated that there was a large mass in her abdomen and that her condition was very serious. He recommended IV fluids, antibiotics, and overnight care at the Bridge City Clinic. Mrs. Flannery agreed.

5. The following morning, Mrs. Flannery’s husband received a call from Dr. Pugh suggesting that they come to the Bridge City Clinic. When they arrived, Dr. Pugh informed the Flannerys that Little Girl’s condition had worsened and that he recommended euthanasia. Mr. and Mrs. Flannery agreed.

6. A necropsy was performed and revealed that Little Girl had surgical sponges in her abdomen. Specifically, a five inch hard mass was found attached to the mesentery. The mass was opened and two sponges were found.

7. Little Girl’s only surgery was the spay performed by Respondent. She had no other surgical procedures before or after the spay.

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 the above Findings of Fact, Respondent violated Rule 573.22, PROFESSIONAL STANDARD OF CARE, of the Board’s Rules of Professional Conduct, by failing to exercise the same degree of humane care, skill, and diligence in treating patients as are 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 the above Findings of Fact and Conclusions of Law, Respondent has violated Sections 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 practice or conduct that violates the board’s rules of professional conduct.
4. Based on the above Conclusions of Law, 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: (a)

(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.

(d) In addition to other disciplinary actions authorized by this subchapter, the board may require a license holder who violates this chapter to participate in a continuing education program.

5. Based on the above Conclusions of Law, 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.

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 receive a FORMAL REPRIMAND.

The Board further ORDERS that Respondent pay, within forty-five (45) days of the date the Board approves this Order, an administrative penalty in the amount of FIVE HUNDRED DOLLARS ($500.00). If Respondent fails to pay the restitution within forty-five (45) days of the date of the Board approves this Order, enforcement action will be taken. Further, if Respondent fails to pay the administrative penalty within 45 days of the date that the Board approves this Agreed Order, the Board may apply any payment to the Board to renew a license to pay any outstanding administrative fee owed to the Board.

In addition, the Board ORDERS that Respondent complete an additional THREE (3) hours of continuing education in SURGICAL PROTOCOLS, within one year of the date of this Order. Documentation of the completion of the continuing education penalty shall be received within thirty (30) days after one year of the date the Board approves this Order. If Respondent fails to provide documentation of completion within forty-five (45) days of one year of the date the Board
approves this Order, Respondent’s license may be suspended until the continuing education penalty is completed and documentation is received by the Board.

The Board further ORDERS that:

1. Respondent shall abide by the Rules of Professional Con conduct, the Texas Veterinary Licensing Act, the laws of the State of Texas, and the laws of 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 Agreed 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 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. 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, AMY TURNER, 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.

amyturner

AMY TURNER, D.V.M.

5/20/2015

DATE

Agreed Order 2015-112

AMY TURNER, D.V.M.
STATE OF TEXAS
COUNTY OF BELL

BEFORE ME, on this day, personally appeared AMY TURNER, 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 20th day of May, 2015.

Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Nicole Muhlen, Notary Public
City of Allentown, Lehigh County
My Commission Expires Dec. 18, 2016

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 21st day of July, 2015.

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

Agreed Order 2015-112
AMY TURNER, D.V.M.