DOCKET NO. 2002-61

IN THE MATTER § TEXAS STATE BOARD OF

OF THE LICENSE OF §

JACK VALLEE, JR., 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 Jack Vallee, Jr., D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, Respondent appeared with counsel at an informal conference on September 19, 2002 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 to 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 compliance issues. 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 mailed 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 October 22, 2001 the Board received a complaint from Jan Dennis and Corlisa Cunningham, Killeen, Texas alleging that Jack Vallee, D.V.M., allowed access to controlled substances by a non-licensed employee of the Cen-Tex Humane Society in Killeen and that the employee euthanized a shelter dog without permission or supervision of Dr. Vallee. Dr. Vallee was under contract with the humane society to provide veterinary services to the Second Chance Animal Adoption Center and Animal Clinic. Dr. Vallee allowed Nicole Pendleton, a non-licensed employee of the clinic, access to controlled substances but did not provide specific instructions and limitations to her concerning the use of those substances. Ms. Pendleton acknowledged in writing that on or about September 14, 2001 she did use a Schedule III controlled substance to euthanize a dog "Lexi" at the clinic.

2. Ms. Pendleton also euthanized two cats in October, 2000 while Dr. Vallee was not on the premises. Dr. Vallee admonished her at the time of the occurrence but Ms. Pendleton continued to work at the clinic.
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. Performance of euthanasia procedures on an animal constitutes the practice of veterinary medicine.

3. Based on Findings of Fact 1 and 2 and Conclusions of Law 1 and 2, Respondent has violated Rule 573.10, SUPERVISION OF NON-LICENSED EMPLOYEES, of the Board’s Rules of Professional Conduct, paragraphs (e), (f) and (g), which states:

   (e) Responsibility for Acts of Non-Licensed Employees. A licensee may determine a non-licensed employee’s qualifications necessary to perform routine patient care and treatment. The licensee is directly responsible for all actions of non-licensed employees acting under his/her directions or authorization. A licensee failing to properly supervise a non-licensed employee or improperly delegating care and/or treatment responsibilities may be subject to disciplinary action by the Board.

   (f) Prohibited Services. An unlicensed individual shall not perform the following health care services: surgery; invasive dental procedures; diagnosis and prognosis of animal diseases and/or conditions; or prescribing drugs and appliances.

   (g) Euthanasia may be performed by a veterinary technician only under the immediate supervision of a veterinarian.

4. Based on Findings of Fact 1 and 2 and Conclusions of Law 1 and 2, Respondent has violated Rule 573.11, DISCOURAGEMENT OF UNAUTHORIZED PRACTICE, of the Board’s Rules of Professional Conduct, which states:

   (a) A veterinarian who employs and/or supervises an unlicensed person shall be responsible for any acts of the unlicensed person committed within the scope of the person’s employment that constitute the unauthorized practice of veterinary medicine.

5. Based on 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.

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6. Based on Conclusions of Law 1 through 5, Respondent may be disciplined by the Board in the manner provided for in Sec. 801.401 of the Veterinary Licensing Act, Texas Occupations Code.

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

The Board ORDERS that the Respondent be officially REPRIMANDED.

The Board further ORDERS that the Respondent take and pass the Board’s JURISPRUDENCE EXAMINATION within 45 days of the date of this Agreed Order.

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 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 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.

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I, JACK VALLEE, JR., 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.

Jack Vallee, Jr., D.V.M. 
Respondent

DATE

STATE OF TEXAS

COUNTY OF MIDLAND

BEFORE ME, on this day, personally appeared Jack Vallee, Jr., 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 03 day of October, 2002

NINA FAY THOMAS
MY COMMISSION EXPIRES
August 24, 2003

Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 17th day of October, 2002.

Martin E. Garcia, D.V.M.
President

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