DOCKET NO. 2010-91

IN THE MATTER OF § TEXAS BOARD OF

THE LICENSE OF § VETERINARY

ALFRED VARDEMAN, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this the 10 day of Sept, 2010, came on to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Alfred Vardeman, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on June 29, 2010. The Respondent was represented by counsel, Dawn Reveley. 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 October 21, 2008, Miranda Sevier's eight year-old son, of Colorado City, Texas was bitten by a pit bull dog. The dog was transported to Dr. Alfred L. Vardeman's clinic, the Mitchell County Veterinary Clinic, in Colorado City, Texas. Mitchell County Veterinary Clinic provides a kennel facility for the Colorado City dog pound. Dr. Vardeman stated that his staff is responsible for removing and packaging heads for rabies testing, not city employees.

2. On Friday, October 24, 2008, the dog's head was shipped to the laboratory at the Texas Department of State Health Services, three days after the dog was euthanized. According to the report from the Texas Department of State Health Services, the dog's head was packed without ice, and was decomposed and unable to be tested when it was received on October 26, 2008 at 1:00 p.m. This resulted in Miranda Sevier's child having to be given the series of rabies vaccinations shots, which were possibly unnecessary.

Agreed Order 2010-91
Alfred Vardeman, D.V.M.

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3. According to Dr. Vardeman, he investigated this matter with his staff and he does not know who decapitated the dog and packaged the head for shipment. Dr. Vardeman stated that a staff person who quit during this time period could have removed the head. According to Dr. Vardeman, he, this staff person, would have known to place ice into the shipping container. Dr. Vardeman stated that the animal control officer failed to inform the clinic staff that the dog was left in the clinic’s isolation room. On Friday, October 24, 2008, Dr. Vardeman did discover the head when he kicked a box in his office and was informed by his staff that a head was inside. Dr. Vardeman did concede that if the staff had known that the dog was in the clinic, then it would have been the clinic’s responsibility to prepare and ship the head.

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 Facts 1 and 2, Respondent has violated Rule 573.10, SUPERVISION OF NON-LICENSED EMPLOYEES, of the Board’s Rules of Professional Conduct, which requires veterinarians to be directly responsible for all actions of non-licensed employees acting under the licensee’s directions or authorization. Dr. Vardeman failed to properly supervise his non-licensed staff in the receipt of animal remains, the procedure for handling the testing of an animal with rabies, and the proper and timely shipping of animal remains for rabies testing.

3. Based on Finding of Facts 1 and 2 and Conclusions of Law 1 and 2, 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.

4. Based on Conclusions of Law 1 through 3, 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;

Agreed Order 2010-91
Alfred Vardeman, D.V.M.
(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.

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

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Alfred Vardeman, D.V.M., be FORMALLY 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, 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 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, ALFRED VARDEMAN, 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]
Alfred Vardeman, D.V.M.

7-29-10
Date

STATE OF TEXAS
COUNTY OF Mitchell

BEFORE ME, on this day, personally appeared Alfred Vardeman, 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 29 day of July, 2010.

[Signature]
Notary Public

ATHENA KOCH
Notary Public, State of Texas
My Commission Expires SEPTEMBER 22, 2012

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 10 day of Sept, 2010.

[Signature]
Bud E. Alldredge, Jr., D.V.M., President

Agreed Order 2010-91
Alfred Vardeman, D.V.M.