

FEB 12 1998

IN THE MATTER OF THE LICENSE OF § TEXAS STATE BOARD OF
 MARK L. VENGHAUS, D.V.M. § VETERINARY MEDICAL EXAMINERS
 § STATE BOARD OF VETERINARY
 MEDICAL EXAMINERS

AGREED ORDER

On this the 26th day of February, 1998, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board"), the matter of the license of MARK L. VENGHAUS, DVM, ("Respondent" or "Dr. VENGHAUS"). Pursuant to the Veterinary Licensing Act ("Act") § 18F and Rule 575.27, on January 7, 1998, Respondent appeared at an Informal Conference in response to a letter of invitation from the Board. The Board was represented at the Informal Conference by the Enforcement Committee.

Respondent wishes to waive a formal adjudicative hearing and to enter into this Agreed Order. In waiving an adjudicative hearing Respondent acknowledges understanding of the alleged violations and the adequacy and sufficiency of the notice provided to him.

Upon 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. Mark L. Venghaus, DVM, is a veterinarian licensed by the Board to practice veterinary medicine in the state of Texas under license number 6886, 1997 renewal certificate number 0899. Respondent is not subject to prior disciplinary action by the Board.
2. The Board has jurisdiction over the subject matter and Respondent. Respondent has received all notice which may be required by law and by the Board Rules. All jurisdictional requirements have been satisfied.
3. On or about February 23, 1997, Ms. Donna K. Allen, Round Rock, Texas, took her dog "Sugar Baby", a four year old female Miniature Dachshund, to the Emergency Animal Hospital of Northwest Austin (EAHNA), Austin, Texas, because "Sugar Baby" was having problems with parturition.
4. On or about February 23, 1997, at approximately 12:20 a.m., Dr. David Burnett an associate, of EAHNA, examined "Sugar Baby". The examination disclosed that the dog's vital signs were within normal limits. Palpation of the abdomen revealed the presence of two pups, however, the dog

was not in labor. Two pups had been born earlier in the evening at home. Between 12:30 a.m. and 1:58 a.m., two pups were born at EAHNA and "Sugar Baby" was admitted for observation.

5. On or about February 23, 1997, at approximately 9:15 a.m., Ms. Allen called EAHNA and authorized radiographs to determine if there were any remaining pups. Radiographs disclosed that there were two pups retained. Induced labor failed to remove the pups.

6. On or about February 23, 1997, at approximately 1:30 p.m., Dr. Mark L. Venghaus, an associate, at EAHNA, performed a c-section and Ovariohysterectomy (OHE) on "Sugar Baby". Two dead pups were removed. During OHE surgery, Dr. Venghaus transected the urinary bladder and ureters. The body of the urinary bladder was adhered to the body of the uterus. The urinary bladder was reattached by Dr. Venghaus with 4-0 sutures.

7. On or about February 23, 1997, at approximately 2:00 p.m., Dr. Stephen Kerpsack, Central Texas Veterinary Specialty Hospital (CTVSH), Austin, Texas, was requested by the attending veterinarians, at EAHNA, to attempt reconstruction of the urinary tract while the patient was at EAHNA. Dr. Kerpsack removed the uterus. The bladder was sutured to the urethra circumferentially. Ureters were spatulated and re-implanted to the mid-region of the bladder. The left ureter was stented. A Foley urinary catheter was inserted. The bladder was omentalized to provide a blood supply. "Sugar Baby" was then transferred to CTVSH for follow-up care and further treatment. The dog was hospitalized for 14 days.

8. On or about March 10, 1997, "Sugar Baby" was discharged from CTVSH.

Conclusions of Law

1. Respondent is required to comply with the provision of the Act and Board Rules.
2. Section § 14 (a) of the Act authorizes the Board to revoke or suspend a license, impose a civil penalty, place a licensee on probation, or reprimand a licensee based upon findings of non-compliance with the Act or Board Rules.
3. Based on Findings of Fact 6, Respondent's transection of the urinary bladder and ureters did not constitute the exercise of the same degree of humane care, skill and diligence in treating patients as is ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in Austin, Texas, or similar community. Therefore Respondent has violated Board Rule 573.22.
4. Based on Findings of Fact 6, Respondent has violated Act § 14 (a) (5) for engaging in

practices or conduct in connection with the practice of veterinary medicine which were violative of the standards of professional conduct duly promulgated by the Board.

5. Based on any one of the Conclusions of Law 3 and 4, Respondent is subject to disciplinary action by the Board under Act § 14 (a).

Based on the above findings of fact and conclusions of law, the Board ORDERS that Dr. Venghaus receive an OFFICIAL REPRIMAND under the following terms and conditions:

1. Respondent shall abide by the Rules of Professional Conduct, the Texas Veterinary Licensing Act and 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 the Agreed 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, Mark L. Venghaus, DVM, by signing this Agreed Order, agrees to the terms of this order, and acknowledges his understanding of the order and the notice, the findings of fact and conclusions of law herein set forth in the Agreed Order 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 of the Board.

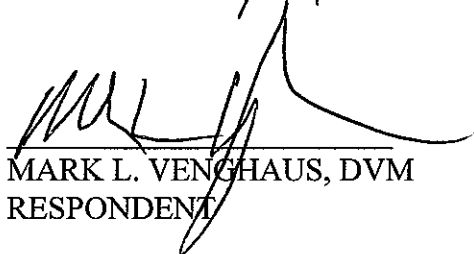
Respondent, Mark L. Venghaus, DVM, by signing this Agreed Order waives his right to a formal hearing and any right to seek judicial review of this Agreed Order.

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. NOTHING IN THIS ORDER SHALL BE DEEMED A WAIVER OF RESPONDENT'S RIGHTS UNDER STATUTE OR 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 State Board of Veterinary Medical Examiners.

I, MARK L. VENGHAUS, DVM, HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

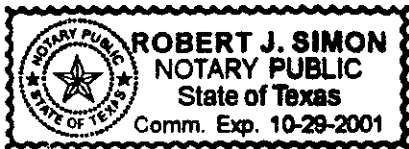
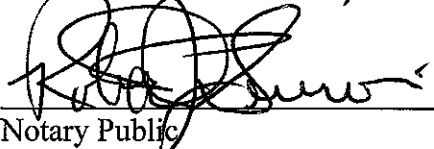
DATED: 2/9, 1998.


MARK L. VENGHAUS, DVM
RESPONDENT

STATE OF TEXAS §
COUNTY OF Williamson §

Before Me, Mark L. Venghaus on this day personally appeared Mark L. Venghaus, DVM, 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.

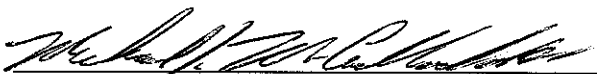
Given under my hand and seal of office this 9th day of February, 1998.

(Seal)  
Notary Public

This agreed order has been entered between Dr. Mark L. Venghaus and Ron Allen, the Executive Director of the Texas State Board of Veterinary Medical Examiners, in concurrence with the Board Secretary. It is presented to the Board as a recommendation only.


RON ALLEN, Executive Director, TSBVME

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on the 26th day of February, 1998.


Michael J. McCulloch, D.V.M., President

DOCKETED COMPLAINT NO. 1998-04

TEXAS STATE BOARD OF VETERINARY	§	TEXAS VETERINARY MEDICAL
MEDICAL EXAMINERS	§	LICENSE NO. 6886
vs.	§	1997 RENEWAL CERTIFICATE
MARK L. VENGHAUS, DVM	§	NUMBER 0899

COMPLAINT AFFIDAVIT

Before me, the undersigned authority, a Notary Public in and for Texas, on this day personally appeared Charles Adkins, who after being duly sworn, did depose and say:

On or about March 5, 1997, Charles Adkins, being an employee of the Texas State Board of Veterinary Medical Examiners, did in the course of such employment, make certain investigations into the professional conduct of one Mark L. Venghaus, D.V.M., 1419 West 39th Street, Austin, Texas, 78731, Veterinary License Number 6886, 1997 Renewal Certificate Number 0899, a practitioner of veterinary medicine in the State of Texas. As an employee of the Texas State Board of Veterinary Medical Examiners, I, Charles Adkins, do hereby present the following complaint against Mark L. Venghaus, DVM.

I.

On or about February 23, 1997, Ms. Donna K. Allen, Round Rock, Texas, took her dog "Sugar Baby", a four year old female Miniature Dachshund, to the Emergency Animal Hospital of Northwest Austin (EAHNA), Austin, Texas, because "Sugar Baby" was having problems with parturition.

II.

On or about February 23, 1997, at approximately 12:20 a.m., Dr. David Burnett, an associate, of EAHNA, examined "Sugar Baby". The examination disclosed that the dog's vital signs were within normal limits. Palpation of the abdomen revealed the presence of two pups, however, the dog was not in labor. Two pups had been born earlier in the evening at home. Between 12:30 a.m. and 1:58 a.m., two pups were born at EAHNA and "Sugar Baby" was admitted for observation.

III.

On or about February 23, 1997, at approximately 9:15 a.m., Ms. Allen called EAHNA and authorized radiographs to determine if there were any remaining pups. Radiographs disclosed that there were two pups retained. Induced labor failed to remove the pups.

IV.

On or about February 23, 1997, at approximately 1:30 p.m., Dr. Mark L. Venghaus, an associate, at EAHNA, performed a C-section and Ovariohysterectomy (OHE) on "Sugar Baby". Two dead pups

were removed. During OHE surgery, Dr. Venghaus transected the urinary bladder and ureters. The body of the urinary bladder was adhered to the body of the uterus. The urinary bladder was reattached by Dr. Venghaus with 4-0 sutures.

V.

On or about February 23, 1997, at approximately 2:00 p.m., Dr. Stephen Kerpsack, Central Texas Veterinary Specialty Hospital (CTVSH), Austin, Texas, was requested by the attending veterinarians, at EAHNA, to attempt reconstruction of the urinary tract while the patient was at EAHNA. Dr. Kerpsack removed the uterus. The bladder was sutured to the urethra circumferentially. Ureters were spatulated and re-implanted to the mid-region of the bladder. The left ureter was stented. A Foley urinary catheter was inserted. The bladder was omentalized to provide a blood supply. "Sugar Baby" was then transferred to CTVSH for follow-up care and further treatment. The dog was hospitalized for 14 days.

VI.

On or about March 10, 1997, "Sugar Baby" was discharged from CTVSH. Dr. Kerpsack's overall impression was that the dog's kidneys were functioning well and emptying into the bladder.

VII

The acts and/or failures to act alleged in the above paragraph number 4 do not constitute the exercise of the same degree of humane care, skill and diligence in treating patients as is ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in Austin, Texas, or similar community.

VIII.

Based on paragraph IV, Dr. Venghaus violated Rule 573.22 - Professional Standard of Humane Treatment of the Rules of Professional Conduct.

IX.

Based on the above in paragraph VII, Dr. Venghaus also violated Section 14 (a) (5) of the Veterinary Licensing Act, article 8890.


ARTICLE 8890, SECTION 14

(a) . . . the Board may revoke or suspend a license, impose a civil penalty, place a person whose license has been suspended on probation, or reprimand a licensee . . . if it finds that a licensee:

(5) has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with the law;

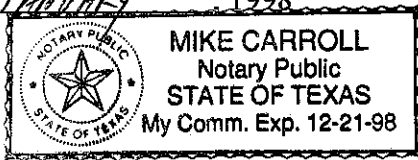
The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the 9th day of JANUARY, 1998.

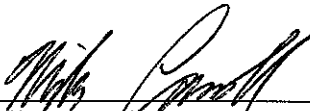
Further, Affiant sayeth not.



Charles Adkins Affiant

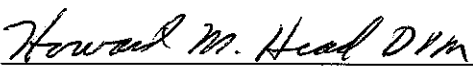
SUBSCRIBED and SWORN TO before me by the said Charles Adkins this the 9th day of JANUARY, 1998





Mike Carroll, Notary Public in and for Texas

The foregoing Complaint is hereby filed and docketed with the Texas State Board of Veterinary Medical Examiners and styled Texas State Board of Veterinary Medical Examiners vs. Mark L. Venghaus, D.V.M. under Docketed Number 1998-04, this the 17th day of JAN, 1998.



Howard M. Head, DVM, Board Secretary
Texas State Board of Veterinary Medical
Examiners