DOCKET NO. 2002-11

IN THE MATTER OF § TEXAS STATE BOARD OF

THE LICENSE OF §

DICKIE J. VEST, D.V.M. § VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this the 21st day of February, 2002 came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of Dickie J. Vest, D.V. M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on December 13, 2001. 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 March 5, 2001 Dickie J. Vest, D.V.M., Collier Equine Veterinary Service, Inc., Waller, Texas responded to a call from a person working for Susan Bucci, Waller, Texas regarding an injury to a horse being boarded at Mrs. Bucci’s barn. Dr. Vest went to the barn to examine the horse. When he was leaving the premises, Dr. Vest accidentally backed his vehicle over the right front leg of Mrs. Bucci’s dog "Zorba." Dr. Vest wrapped the leg and administered a steroid shot. Dr. Vest then left the Bucci premises without providing further diagnosis and treatment of the dog’s leg or referring the dog to an emergency facility. Dr. Vest did not attempt to call Mr. or Mrs. Bucci who were on their way back to their home from Mississippi. Upon being informed by telephone of "Zorba’s" condition by a boarder at the Bucci home, Mr. Bucci called Dr. Vest to inquire about what had happened to the dog. Dr. Vest told Mr. Bucci that he had run over the dog and that he would return the next day - March 6 - to x-ray the dog’s leg while he was there to tend to the injured horse. Dr. Vest did return on March 6, but by the time he arrived, the dog had been taken to another veterinarian for examination and treatment.
2. On the morning of March 6, Mrs. Bucci called Dr. Vest’s clinic and asked if Dr. Vest could cast the dog’s foot if x-rays indicated the need for it. The receptionist who took the call responded “no.” At some point after this call, the Bucsis took “Zorba” to the Waller Veterinary Clinic where he was left for x-rays. Melanie Walker, D.V.M., found that the dog’s scapula had dropped an inch from its normal position and that the radial nerve was damaged. Mrs. Bucci authorized amputation of the leg. Mr. Bucci asked Dr. Vest if he would pay some of the bill for the amputation, but Dr. Vest responded that he had only rendered first aid to the dog and therefore he was not financially responsible.

3. When Dr. Vest examined and treated “Zorba” following the injury and stated his intent to follow up with diagnostic x-rays, Dr. Vest established a patient/client/veterinarian relationship.

4. Dr. Vest’s failure to provide prompt and thorough diagnosis and appropriate treatment of the dog’s injury or refer the dog to an emergency clinic or make other arrangements where prompt care could be provided, does 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 Waller, Texas or similar communities.

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 through 4, Respondent has violated Rule 573.22, PROFESSIONAL STANDARD OF HUMANE TREATMENT, of the Board’s Rules of Professional Conduct, which requires veterinarians to exercise 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 the locality or community in which they practice, or in similar communities.

3. Based on Conclusions of Law 1 through 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;
(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 Dickie J. Vest, D.V.M., be REPRIMANDED.

The Board further ADOPTS the following terms and conditions:

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 has 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, DICKIE J. VEST, 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]
Dickie J. Vest, D.V.M.

07/23/02
Date

STATE OF TEXAS
COUNTY OF ECTOR
§

BEFORE ME, on this day, personally appeared Dickie J. Vest, 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 8th day of January, 2002.

[Signature]
Patricia C. Weidemann
Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL
EXAMINERS on this the 21st day of February, 2002.

[Signature]
Martin E. Garcia, D.V.M., President