DOCKET NO. 2010-87

IN THE MATTER OF § TExAS BOARD OF

THE LICENSE OF § VETERINARY

DENNIS A. WENDT, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this the 10th day of Sept, 2010, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Dennis A. Wendt, 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 Lucas Mauro at the informal settlement conference. 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 July 18, 2009, Carolyn and Steve Helmick of Spring, Texas, presented their one year and eleven month-old female Pomeranian, "Shy Bear" for not feeling well and having a temperature following the delivery of two puppies three days before to Dennis A. Wendt, D.V.M., Wendt Veterinary Service in Houston, Texas. Dr. Wendt examined "Shy Bear" and administered 1 cc Gentamicin and 1 cc Dexameth, with no notation of diagnosis.

2. On July 20, 2009, the Helmicks presented "Shy Bear" to Dr. Wendt for a follow-up examination. According to the Helmicks, Dr. Wendt examined "Shy Bear," gave it an injection of medication and released "Shy Bear" back into their care. According to Dr. Wendt, he gave the same dose of Gentamicin but did not administer any Dexameth. The medical records for "Shy Bear" from Dr. Wendt do not reflect an examination on July 20, 2009, or any medication administered. Dr. Wendt’s patient records do not meet the Board’s requirements.
3. Dr. Wendt’s failure to properly examine “Shy Bear” or perform any diagnostic testing does not represent 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 Houston, Texas, or similar communities, and constitutes a violation of Rule of Professional Conduct §573.22 Professional Standard of Humane Treatment.

4. This is Dr. Wendt’s second agreed order this year. An agreed order involving Dr. Wendt was signed by the Board on June 28, 2010.

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 Fact 3, 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 the above Findings of Fact, Respondent has violated Rule 573.52 PATIENT RECORD KEEPING, which requires veterinarians to maintain a phone number for the client, and to identify the species, breed, age, and description of the patient, state any patient history, previous dates of visits, immunization records, weight, and dosages and routes of administration of each drug administered.

4. Based on the above Findings of Fact and Conclusions of Law 1 through 3, 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.

5. Based on Conclusions of Law 1 through 4, 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 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.

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

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Dennis A. Wendt, D.V.M., be FORMALLY REPRIMANDED.

In addition, the Board ORDERS that Dennis A. Wendt, D.V.M. complete an additional NINE (9) hours of continuing education, three (3) of which in recordkeeping, and six of which in pharmacology 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 of the end of the period to complete the continuing education. If Respondent fails to provide documentation of completion within forty-five (45) days of the end of the period to complete the continuing education, further enforcement action will be taken.

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 acknowledges that he 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, DENNIS A. WENDT, 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]
Dennis A. Wendt, D.V.M.

[Date]

STATE OF TEXAS
COUNTY OF Harris

BEFORE ME, on this day, personally appeared DENNIS A. WENDT, 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.

Agreed Order 2010-87
Dennis A. Wendt, D.V.M.
Given under the hand and seal of office this 28 day of July, 2010.

Notary Public

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

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

Agreed Order 2010-87
Dennis A. Wendi, D.V.M.