



employees and volunteers at the Frank Barchard Memorial Animal Shelter (the "Shelter") to perform spay and neuter surgical procedures.

4. The SPCA investigator received a report that the veterinary medicine practiced at the Shelter was not in compliance with Board Rules. The report states that a person had adopted a cat from the Shelter where the spay incision on that cat opened to the extent that some of the cat's organs fell out of the incision the day after the adoption. The report states that witnesses found the Shelter to be unsanitary and to have a very strong smell of urine, feces, and ammonia. The report further states that the following categories of animals were reported by witnesses to be housed there as well: dogs that appeared to be hurt from fighting, cats with respiratory infections and eyes shut from dried mucus, and a number of small puppies being kept together in a closet area located in the back of the building used for the office because they were afflicted with a disease the witness did not readily recall. The SPCA report also stated that another witness told the SPCA investigator that the witness had observed a dead dog in one of the kennels.

5. The SPCA report also included information that witnesses reported to the SPCA investigator that Respondent would have volunteers, whether they had a license to practice veterinary medicine was of no consequence to him, perform surgeries during spay and neuter clinics. It was also reported that Respondent would often not even be in the room with the volunteers as they spayed or neutered the animal because he would leave the room for five (5) to 10 minute breaks and for 30 minutes lunch breaks during the surgeries.

6. Ms. Courtney Stewart is a student at a local college. She volunteered at the Shelter and confirmed most of what was contained in the SPCA report with regards to the surgeries being performed by non-veterinarians. Ms. Stewart stated that Respondent would usually perform spay and neuter procedures with a volunteer and then allow two (2) volunteers to perform a procedure with him instructing them. Ms. Stewart stated that she observed Respondent perform surgeries for a few weeks and then began participating in the surgeries. Respondent instructed her as to how to make incisions, use clamps, tie knots using suture, cut tissue, operate the anesthesia machine, draw blood, and suture the body wall and skin incisions. Respondent directly observed her performing surgeries and instructed her on what to do. Ms. Stewart stated that pre-surgical and post-surgical procedures were always performed by other lay staff members or volunteers, who also administered sedatives prior to surgery.

7. Ms. Stewart stated that, over time, Respondent began to allow two (2) volunteers to perform surgeries alone while he watched. Occasionally, Respondent would instruct the volunteers to continue the surgery while he left the room.

8. Ms. Stewart estimated that she operated on about 100 to 120 dogs and about 20 to 30 cats from September 2013 to July 2014. Ms. Stewart also identified other lay people who performed surgeries, including two 14-year-old volunteers.

9. After being informed that she was practicing veterinary medicine without a license, Ms. Stewart confronted Respondent to ask how he could allow her and other lay people to perform surgeries when they did not have a veterinary license. Respondent told Ms. Stewart that it is a "grey area of the law" and, since the animals were owned by the Shelter, non-veterinarians could perform surgery on the animals. Respondent further told Ms. Stewart that he did not consider a neuter surgery to be an invasive procedure. Respondent also told her that many clinics in the area operated in the same manner.

10. Ms. Miranda Lester was also a volunteer at the Shelter and a local college student. Ms. Lester stated that volunteers were allowed to perform spay and neuter surgeries alongside Respondent and alone with Respondent observing. She stated that volunteers were not wearing surgical gloves during surgeries but rather regular gloves that came in a box.

11. Ms. Lester stated that, over time, the volunteers' had increasingly greater involvement in the surgeries. The volunteers went from watching surgeries, to monitoring animals, to assisting the Respondent, and, finally, to conducting the surgeries with another volunteer. Other volunteers would perform cat neuter procedures out of the presence of others.

12. Ms. Amanda Hill, also a lay person, volunteered at the Gregg Animal Clinic (the "Clinic") and later became an employee of the Clinic. Respondent invited Ms. Hill to observe him performing spay and neuter procedures and the Shelter once a week. Respondent later asked Ms. Hill to "start practicing [her] sutures."

13. Respondent attempted to recruit other lay persons to observe and perform surgeries. He would send out emails with monthly invites for people to come and participate in spay and neuter clinics.

14. Respondent admitted to a Board investigator that he allowed employees, including lay staff and lay volunteers, including students, to perform spay and neuter surgeries. Respondent stated that he provided direct supervision during the procedures. He stated that he first performed 12 to 16 spay and neuter procedures for the Shelter in four (4) hours. Later, he performed 30 to 36 procedures for the Shelter in eight (8) hours.

15. Respondent stated that since he has worked at the Shelter, he has always solicited the assistance of volunteers for surgery.

16. Respondent stated that he considered the sanitary conditions of the facility, especially the surgery room, unacceptable. He admitted to performing surgeries in the unsanitary surgical room. He stated that the lighting is inadequate, ventilation is poor, and the surfaces are not easily cleanable. He also stated that there is "too much extra unneeded 'stuff' in surgery." He further stated that there are too many animals in the facility.

17. Respondent admitted that he violated the Board Rules by allowing non-veterinarians to perform surgeries.

### 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 the above paragraphs, Respondent has violated Rule 573.10 SUPERVISION OF NON-VETERINARIANS, of the Board's Rules of Professional Conduct, by failing to properly supervise his non-veterinarian employee in the performance of a delegated duty.

3. Based upon the above paragraphs, Respondent has violated Rule 573.22 PROFESSIONAL STANDARD OF CARE, of the Board's Rules of Professional Conduct, by allowing non-veterinarian employee and volunteers to improperly suture a patient and by allowing non-veterinarian employee and volunteers to perform surgeries.

4. Based on the above paragraphs, Respondent has violated Rule 573.79 MAINTENANCE OF SANITARY PREMISES, of the Board's Rules of Professional Conduct by failing to maintain sanitary conditions.

5. Based on Findings of Fact 1 through 17 and Conclusions of Law 1 through 4, Respondent has violated Sections 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 practice or conduct that violates the board's rules of professional conduct...

6. Based on Conclusions of Law 1 through 5, 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: (a)

- (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 Respondent receive an FORMAL REPRIMAND.

The Board further ORDERS that Respondent's license be SUSPENDED for FIVE YEARS, with all but ONE YEAR of said SUSPENSION STAYED and Respondent placed on PROBATION for the remaining FOUR YEARS of the SUSPENSION.

The Board ORDERS that Respondent pay, within 45 days of the date of this Order, an ADMINISTRATIVE PENALTY of TWENTY-FIVE HUNDRED DOLLARS (\$2500.00). If Respondent fails to pay the administrative penalty within 45 days of the date of this Order, the Board may apply any payment to the Board to renew a license to pay any outstanding administrative fee owed to the Board.

The Board further ORDERS that:

1. Respondent shall abide by the Rules of Professional Conduct, the Texas Veterinary Licensing Act, the laws of the State of Texas, and the laws of 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 Agreed 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 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, ADAM WHITSON, 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.**

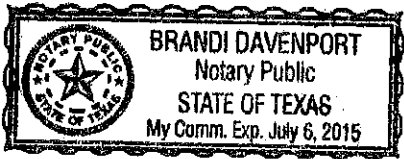
Adam B. Whitson, DVM  
ADAM WHITSON, D.V.M.

11/20/14  
DATE

STATE OF TEXAS §  
COUNTY OF Hopkins §

BEFORE ME, on this day, personally appeared Adam Whitson, 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 20 day of November, 2014



Brandi Davenport  
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 27 January, 2015.

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