IN THE MATTER OF § TEXAS BOARD OF
THE LICENSE OF § VETERINARY
ADAM WHITSON, D.V.M. § MEDICAL EXAMINERS

DOCKET NO. 2015-122

AGREED ORDER

On this the 21 day of July, 2015 came to be considered by the Texas Board of Veterinary Medical Examiners (Board) the matter of the license of ADAM WHITSON, D.V.M. (Respondent). Pursuant to Section 801.408, Texas Occupations Code, and Board Rule 575.29, an informal conference was held on February 20, 2015. Respondent did attend the informal 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. Respondent, ADAM WHITSON, D.V.M. of Sulphur Springs, Texas, holds Texas veterinary license 10931.

2. The Board has jurisdiction over the subject matter and Respondent. Respondent received notice, which may be required by law and by the rules of the Board. All jurisdictional requirements have been satisfied under Tex. Occ. Code Ann. Title 4 (Act). By entering into this Agreed Order, Respondent waives any defect in the notice and any further right to notice and hearing under the Act; Tex. Gov’t Code Ann. §§ 2001.051-.054; and the Rules of the Texas Board of Veterinary Medical Examiners (Board Rules) (22 Tex. Admin. Code, Chapter 575).

3. On July 2, 2014, a 2 year old female mix breed canine named Ava was brought to Respondent at the Frank Barchard Memorial Animal Shelter in Wolfe City, Texas (the “Shelter”).
4. At approximately 4:50 p.m. on July 2, 2014, Shannon Slavens ("Ms. Slavens") arrived at the Shelter to pick up Ava and two additional dogs. A Shelter volunteer brought the dogs to Ms. Slavens and placed them in their crates. Ms. Slavens noticed that Ava was lethargic, appeared to be in pain, and had dried and fresh blood down inside both of her hind legs. She further observed that blood was actively dripping from the dog's abdomen and that Ava had a large, softball sized, hematoma at the incision site. Ms. Slavens told the Shelter volunteer to contact Respondent. The Shelter's owner, Jody McIntier contacted Respondent. Respondent told Ms. McIntier to "wrap her" and send her home. Ms. Slavens told Ms. McIntier that such treatment was unacceptable and that she was taking Ava to Northeast Texas Emergency Veterinary Services (the "Clinic").

5. Juddsen McCreary, D.V.M. ("Dr. McCreary") examined and treated Ava at the Clinic. Dr. McCreary determined that Ava was in poor condition and needed emergency surgery. Ms. Slavens paid $1,947.06 for the procedure.

6. Dr. McCreary stated that Respondent did not meet the standard of care in this case. Dr. McCreary further thought that Ava was neglected by Respondent. He stated that the procedure was performed carelessly without proper protocol or ligation of major vessels. The dog would have passed away without his surgical intervention.

7. Karri McCreary, D.V.M. was present during Ava's procedure at the Clinic but did not assist. Dr. Karri McCreary stated that in her opinion she witnessed a lack of standard of care on the part of Respondent. Specifically, she stated that there was a lack of ligatures present and obvious previous bleeding and continued bleeding that were avoidable if proper surgical technique was used. She further stated that it would be clear to any trained veterinarian that without ligatures, the dog would continue to hemorrhage until she passed away.

8. Jon Manning, D.V.M. assisted Dr. Juddsen McCreary with Ava's procedure at the Clinic. Dr. Manning believes that Ava was in shock due to the amount of blood loss she sustained. Dr. Juddsen McCreary told Dr. Manning that when he opened the skin, he could put his hand all the way down into the dog's abdomen and that there was a lack of ligatures on the ovarian stump and pedicles. Dr. Manning stated that there was a lack of proper technique and use of suture. There was also a lack of hemostasis, closure of the abdomen. Dr. Manning stated that Respondent showed a disregard for the client and patient when there was a hematoma and active bleeding. Dr. Manning also stated that there have always been rumors of Respondent allowing lay people to perform surgeries.

9. On January 27, 2015, Respondent and the Board agreed to the penalties assessed against Respondent in Agreed Order 2015-002. In addition to other violations, Agreed Order 2015-002 disciplined Respondent for allowing lay people to perform surgeries at the Shelter. The discipline he received was a formal reprimand, a one year suspension from the practice of veterinary medicine, four years of probation, and a twenty-five hundred dollar ($2500) administrative penalty.
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 Findings of Fact, Respondent violated Rule 573.22, PROFESSIONAL STANDARD OF CARE, of the Board’s Rules of Professional Conduct, by failing to exercise the same degree of humane care, skill, and diligence in treating patients as are 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 and Conclusions of Law, 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 practices or conduct that violates the board’s rules of professional conduct...

4. Based on the above Conclusions of Law, 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’s license to practice veterinary medicine is REVOKED. In accordance with Board Rule 575.22, Respondent is not allowed to reapply to the Board for a license to practice veterinary medicine for FIVE YEARS.

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 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 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.

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ADAM WHITSON, D.V.M.
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 24th day of March, 2015.

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 21st day of July, 2015.

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ADAM WHITSON, D.V.M.