

DOCKET NO. 2008-69

IN THE MATTER OF § TEXAS BOARD OF  
THE LICENSE OF § VETERINARY  
J. ELROY WHITWORTH, D.V.M. § MEDICAL EXAMINERS

**AGREED ORDER**

On this the 16 th day of October, 2008, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of J. Elroy Whitworth, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on June 20, 2008. The Respondent appeared for the informal conference, representing himself. 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 their understanding of the alleged violations and the adequacy and sufficiency of the notice provided to them.

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 August 15, 2007, Lee Bortner of Cedar Creek, Texas presented "Sunshine," Lacy Sachez's nine month-old male yellow tabby feline to J. Elroy Whitworth, D.V.M., of Bastrop, Texas, of Bastrop veterinary Hospital for neutering and de-clawing. According to Dr. Whitworth, a tourniquet was improperly left on overnight, the night of August 15, 2007. The paw below the tourniquet developed gangrene and had to be amputated on August 21, 2007.
2. Dr. Whitworth's failure to properly supervise his non-licensed employees led to the tourniquet being left on for too long of a period and led to unnecessary pain and suffering by "Sunshine" and the unnecessary amputation of "Sunshine's" paw.

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TEXAS STATE BOARD OF  
VETERINARY MEDICAL EXAMINERS

## 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 and 2, Respondent has violated Rule 573.10, SUPERVISION OF NON-LICENSED EMPLOYEES, of the Board's Rules of Professional Conduct, which requires veterinarians to be directly responsible for all actions of non-licensed employees acting under the licensee's directions or authorization. Dr. Whitworth failed to properly supervise his non-licensed employees and is responsible for the tourniquet being left on for too long of a period and the resulting amputation of "Sunshine's" paw.

3. Based on Finding of Fact 2 and Conclusions of Law 1 and 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 an administrative 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 J. Elroy Whitworth, D.V.M., be INFORMALLY REPRIMANDED.

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.

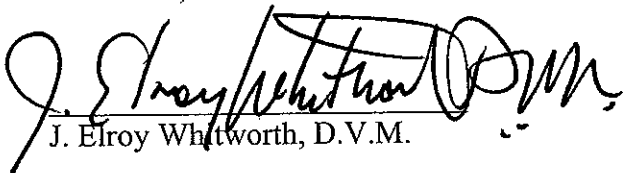
Respondent, by signing this Agreed Order, acknowledges their understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law herein set forth herein, and agrees that they will satisfactorily comply with the mandates of the Agreed Order in a timely manner or be subject to appropriate disciplinary action by the Board.

Respondent, by signing this Agreed Order, waives their right to a formal hearing and any right to seek judicial review of this Agreed Order. Respondent acknowledges that they 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. 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, **J. ELROY WHITWORTH, 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.

  
J. Elroy Whitworth, D.V.M.

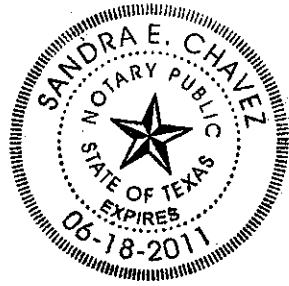
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Date

STATE OF TEXAS §  
COUNTY OF Bastrop §

BEFORE ME, on this day, personally appeared J. ELROY WHITWORTH, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that She executed the same for the purposes stated therein.

Given under the hand and seal of office this 9<sup>th</sup> day of July, 2008.



Sandra E. Chavez  
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 16 day of Oct, 2008.

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