DOCKET NO. 2014-30

IN THE MATTER § TEXAS STATE BOARD OF
OF THE LICENSE OF §
JAMES WILSON, D.V.M. § VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this, the 4th day of February, 2013, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of James Wilson, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code, and Board Rule 575.29, an informal conference was held on November 12, 2013. Respondent did attend the conference, but was not represented by 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. Respondent, James Wilson, D.V.M. of Abilene, Texas, holds Texas veterinary license 3498.

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, 2012, Joe Peterson ("Mr. Peterson") and Andi Bailey ("Ms. Bailey") of Ovalo, Texas, presented their female cat, Momma, to James R. Wilson, D.V.M. of Mobile Veterinary Clinic in Abilene, Texas for immunizations and to be spayed.

4. In attempting to perform the spay procedure on Momma, Dr. Wilson noted in the records that there was an unusual amount of abdominal fat. Dr. Wilson was unable to locate any
reproductive organs in Momma. Dr. Wilson stated that he had informed the owners that he was unable to find any reproductive organs in Momma and it was a birth defect.

5. The owners do not believe they were told that Dr. Wilson could not find any reproductive organs in Momma. Mr. Peterson stated he never saw nor spoke with Dr. Wilson when the cat was discharged from surgery.

6. On April 15, 2013, Momma gave birth to four kittens. Momma was later spayed by a second veterinarian who did find reproductive organs in Momma’s abdomen.

7. As a mitigating factor, Dr. Wilson reimbursed Mr. Peterson and Ms. Bailey for the cost of the second spay surgery.

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 7, Respondent has violated Board Rule 573.22 PROFESSIONAL STANDARD OF HUMANE TREATMENT by failing to remove the reproductive organs of an animal during a spay procedure.

3. Based on Findings of Fact 1 through 7 and Conclusions of Law 1 and 2, Respondent has violated Section 801.402 (6) of the Veterinary Licensing Act, Texas Occupations Code, by violating the Board’s Rules of Professional Conduct 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 Respondent receive an INFORMAL REPRIMAND.

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 provision of the 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 hearing and any right to seek judicial review of this Order. Respondent acknowledges that he is entitled to be represented by an attorney of Respondent=s choice at his expense in any hearing before the Board.

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 date of this Agreed Order shall be the date it is adopted by the Texas Board of Veterinary Medical Examiners.
I, JAMES WILSON, 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.

JAMES WILSON, D.V.M.
DATE

STATE OF TEXAS
COUNTY OF Taylor

BEFORE ME, on this day, personally appeared James Wilson, D.V.M., known to me to be the person whose name is subscribed to the foregoing Agreed Order, and acknowledged to me that he executed the same for the purposes stated therein.

Given under the hand and seal of office this 4th day of December, 2013.

MELINDA C. PHELPS
Notary Public, State of Texas
My Commission Expires
May 11, 2016

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 18th day of February, 2014.

Bud E. Alldredge, Jr., D.V.M.
President of the Board