DOCKET NO. 2011-03

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

AGREEED ORDER

On this the 13th day of December 2010, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of William Yarbrough, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on September 9, 2010. The Respondent appeared 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


2. Dr. Yarbrough examined “Roarke” and determined the dog needed its teeth cleaned and two molars removed, one above the eye lid and the other on the muzzle.

3. On the evening of August 11, 2009, Mr. Estep brought “Roarke” back for surgery on the morning of August 12, 2009. Pre-anesthetic blood work was performed and the results were normal. During the dental cleaning, three teeth with very bad roots were removed. “Roarke” did not eat during the first two days at home. “Roarke” started vomiting approximately three days later. On August 20, 2009, Mr. Estep presented “Roarke” for follow-up.

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hospitalized "Roarke" and administered Baytril, an antibiotic, and small amounts of food and water. The following day, August 21, 2009, "Roarke" began vomiting. Dr. Yarbrough administered Amforol orally and administered an injection of Dexamethasone. "Roarke" vomited water for the rest of the day. On Saturday morning, August 22, 2009, "Roarke" still could not keep any water down. Dr. Yarbrough had blood work done and IV fluids were started. The lab results indicated the kidneys were functioning poorly. No urinalysis was done. Dr. Yarbrough administered Gentamicin, as an antibiotic, a nephrotoxic drug. On Sunday, the IV fluids and antibiotics were continued. "Roarke" was keeping limited water down. On Monday morning, "Roarke" twisted his IV and pulled out his catheter. Dr. Yarbrough instructed his staff not to restart the IV and to limit his water intake until he arrived at noon. On Monday, August 24, 2009, Mr. Estep arrived at the clinic in the morning and found "Roarke" lying in the corner of his cage and did not move until the door was opened. According to Mr. Estep, "Roarke’s" sides appeared to have shrunk and appeared very thin. "Roarke" did not have an IV in place or a catheter. No water was present in the cage. Mr. Estep took "Roarke" outside and "Roarke" urinated a large amount. Mr. Estep brought "Roarke" back into the clinic and staff weighed "Roarke" and he had lost three pounds. Mr. Estep had a technician fill a bowl full of water and "Roarke" drank most of the contents. Mr. Estep questioned why "Roarke" did not have an IV in place and Christy, the veterinary technician, stated that she had removed the IV when "Roarke" had tangled the tube. Christy suggested Mr. Estep speak with Dr. Yarbrough when he arrived at noon. Dr. Yarbrough called Mr. Estep at noon and a disagreement ensued, which ended with Dr. Yarbrough asking Mr. Estep to come to the clinic and pick up "Roarke." Mr. Estep did so in approximately fifteen minutes. Mr. Estep was presented for a bill but was not given information regarding his dog’s condition.

4. Mr. Estep then took "Roarke" to Jessica Shumaker, D.V.M. at Animal Medical Center in Amarillo, Texas. Dr. Shumaker reviewed the lab results which were taken over the weekend at the Yarbrough Veterinary Clinic. Dr. Shumaker determined that the lab test results indicated that "Roarke’s" kidneys were in a lot of distress. Dr. Shumaker advised Mr. Estep that if "Roarke’s" kidneys had been flushed, his chances for survival would have been increased. Dr. Shumaker informed Mr. Estep that "Roarke" might not recover even with treatment at this time. Therefore, Mr. Estep decided to euthanize "Roarke." Dr. Shumaker provided an opinion to the Board that Dr. Yarbrough’s treatment of "Roarke" was below the standard of care in veterinary medicine in Amarillo, Texas, as Dr. Yarbrough should have provided post-operative antibiotics, nor should aminoglycoside have been used in a dehydrated geriatric patient with azotemia present.

5. Dr. Yarbrough’s treatment of "Roarke" 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 Amarillo, Texas or similar communities.
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 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 Finding of Fact 3 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

(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.

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5. Based on Conclusions of Law 1 through 3, the Board may order the license holder to refund an amount not to exceed the amount a client paid to the license holder instead of or in addition to imposing an administrative penalty, under Section 801.408 of the Veterinary Licensing Act, Texas Occupations Code.

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

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that William Yarbrough, D.V.M., be INFORMALLY REPRIMANDED.

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Respondent pay, within 30 days of the date of this Order, RESTITUTION of THREE HUNDRED AND FIFTY FIVE DOLLARS ($355.00), specifically to write off the outstanding bill that has not been presented to the complainant. If Respondent fails to show compliance with writing off the outstanding bill within 30 days of the date of this Order, enforcement action will be taken.

In addition, the Board ORDERS that William Yarbrough, D.V.M. complete an additional NINE (9) hours of continuing education: three (3) in pharmacology, three (3) in renal physiology, and three (3) in recordkeeping within one year of the date of this order. Documentation of the completion of the continuing education penalty shall be received by thirty (30) days following the end of the period to receive the continuing education required for this Order. If Respondent fails to provide documentation of completion within forty-five (45) days from the end of the period to receive the continuing education, Respondent’s license shall be suspended until the continuing education penalty is completed and documentation is received by the Board.

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. 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, WILLIAM YARBROUGH, 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.

William Yarbrough, D.V.M.  
Date 10/4/10

STATE OF TEXAS  
COUNTY OF Randall

BEFORE ME, on this day, personally appeared WILLIAM YARBROUGH, 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 10th day of October, 2010.

Notary Public

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William Yarbrough, D.V.M.
SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 13th of December, 2010.

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