

charged \$150.00 by Town East Animal Hospital.

3. Respondent suggested the Hisers take "Bruce" to a specialist for X-rays. Instead, the Hisers presented "Bruce" to Susan M. Edwards, D.V.M., Petmobile Pet Hospital of Garland, Texas, on March 10, 2008. Dr. Edwards performed an occult snap test which revealed that "Bruce" was indeed infected with heartworms. "Bruce" began treatment with Dr. Edwards and is now heartworm negative.

4. Respondent's failure to perform an adult heartworm antigen (occult) test on "Bruce," considering his symptoms and medical history, 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 Mesquite, Texas or similar communities. The failure to perform an occult test led to the possible misdiagnosis of heartworms in "Bruce."

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 1-4, Respondent has violated Rule of Professional Conduct 573.22, PROFESSIONAL STANDARD OF HUMANE TREATMENT, 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 the above, Respondent has violated §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 §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.

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

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

In addition, the Board ORDERS that Respondent complete THREE (3) hours of continuing education (CE) in heartworm disease, prevention and/or treatment, within one year from the date of this Order. These three CE hours are *in addition* to any hours of CE required by Board Rules for Respondent's license renewal. Documentation of the completion of the CE penalty shall be received by December 1, 2010. If Respondent fails to timely provide documentation of completion, a disciplinary proceeding will be initiated pursuant to the applicable provisions of the Rules and Act.

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 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 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. The effective date of this Agreed Order shall be the date it is adopted by 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. 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.

I, JIM W. AIRHART, 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.

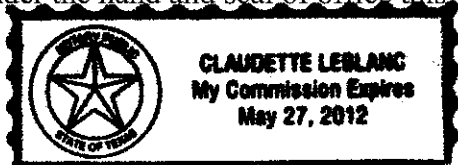
Jim W. Airhart
JIM W. AIRHART, D.V.M.

20 Apr 10
DATE

STATE OF TEXAS §
COUNTY OF Dallas §

BEFORE ME, on this day, personally appeared JIM W. AIRHART, 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 20th day of April 2010



Claudette LeBlanc
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 28 day of June 2010.

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