

AGREED ORDER 2009-36

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

**AGREED ORDER**

On this the 11<sup>th</sup> day of June, 2008, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of MARY BROWN, D.V.M. ("Respondent"). Pursuant to §801.408, Texas Occupations Code and Board Rule §575.27, an informal conference was held on February 13, 2009. Respondent was represented by her attorney, Keith O'Connell. The Board was represented at the conference by its 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 her understanding of the alleged violations and the adequacy and sufficiency of the notice provided her.

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 July 13, 2007, Michelle and Bobby Love of Frisco, Texas, presented "Arizona", a three year old Labrador Retriever to Dr. Mary Brown of Main Street Veterinary Hospital (MSVH), Flower Mound, Texas, for a fractured upper molar. After examining him, Respondent recommended that "Arizona" undergo a root canal and have a crown placed on the molar. Respondent also commented on a malformed left canine tooth. The Loves explained that it was caused by a trauma when "Arizona" was a puppy, they were aware of it, had been monitoring the tooth, and were not concerned about it. Respondent told them she would x-ray the canine at the same time as the molar. The Loves agreed and "Arizona" was hospitalized for the procedure, which was scheduled the same day.

2. During the afternoon of July 13, 2007, Respondent called Mrs. Love and told her that the cracked molar could be repaired with a root canal and crown. Respondent then explained she

discovered an abscess in the canine tooth and needed to perform a root canal and crown on the canine tooth as well. Respondent provided no treatment alternatives to a root canal and crown of the canine tooth. The Loves consented to this procedure, and root canals were performed on both the molar and canine teeth. The Loves picked up "Arizona" from MSVH on July 13, 2007. On July 26, 2007, "Arizona" returned to MSVH to have the crowns placed on the canine and molar teeth. The total cost for both root canal and crown procedures was \$5,926.23.

3. On November 15, 2007, Mrs. Love noticed her other dog playing with a silver object, which turned out to be "Arizona's" canine crown. "Arizona" was immediately taken to MSVH. Respondent speculated that "Arizona" must have bit into a hard object, causing the crown to break. She then told the Loves that the only option was to extract the remainder of the canine tooth's root at a cost of \$480.00. The Loves were surprised to hear that extraction was originally available as a less expensive option and could have been performed on "Arizona's" canine tooth, in lieu of the root canal and crown procedure. Mrs. Love declined to allow Respondent to perform the root extraction. Instead, her regular veterinarian, Dr. Mensik, performed the extraction at a cost of \$513.97.

4. Dr. Brown's failure to fully discuss with the Loves, the availability of alternative procedures for treatment of the canine tooth, including extraction, constitutes a violation of **Rule of Professional Conduct §573.26, HONESTY, INTEGRITY, AND FAIR DEALING.**

#### **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 §573.26 **HONESTY, INTEGRITY AND FAIR DEALING** of the Board's Rules, which requires veterinarians to conduct their practice with honesty, integrity, and fair dealing to clients in time and services rendered, and in the amount charged for services, facilities, appliances and drugs.

3. Based on Findings of Fact 1-4 and Conclusions of Law 1-2, Respondent has violated §801.402(6) of the Act, 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 §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 1-3, Respondent is subject to disciplinary action under

§801.401 of the Act:

§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.

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 be INFORMALLY REPRIMANDED.

In addition, the Board ORDERS Respondent to pay Mr. and Mrs. Love, within 30 days of the date of this Order, restitution of ONE THOUSAND, FIVE HUNDRED DOLLARS (\$1,500.00).

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 her understanding of the Agreed Order, Notice, Findings of Fact and Conclusions of Law set forth herein, and agrees that she 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 her right to a formal hearing and any right to seek judicial review of this Agreed Order.

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 THIS IS A FINAL ORDER.

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

I, MARY BROWN, 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.

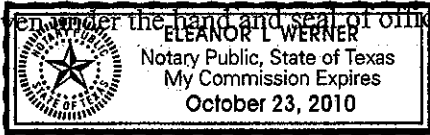
Mary Brown D.V.M.  
Mary Brown, D.V.M.

3-6-09  
Date

STATE OF TEXAS §  
COUNTY OF DALLAS §

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

Given under the hand and seal of office this 6TH day of MARCH, 2009.



Eleanor L. Werner  
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 11<sup>th</sup> day of June, 2009.

[Signature], D.V.M.  
President