

**DOCKET NO. 2007-23**

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

**AGREED ORDER**

On this the 12<sup>th</sup> day of February, 2009, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of JUSTIN CERELLI, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 573.27 an informal conference was held on February 9, 2007. The Respondent appeared without 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. On June 17, 2006 Jayne Rehark, Magnolia, Texas, observed her dog "Briain" vomiting. Late in the day, she called Justin Cerelli, DVM, Edinburg, Texas, to report the vomiting. She indicated that the dog had exhibited similar symptoms in the past after eating foreign objects and had on at least two occasions undergone abdominal surgery to remove the objects. Dr. Cerelli agreed to meet Ms. Rehark and "Briain" at his clinic. Ms. Rehark presented feces from "Briain" which contained bits of cow hooves. Ms. Rehark had given the dog cow hooves against the advice of her regular veterinarian.
2. Dr. Cerelli examined the dog and told Ms. Rehark that he could not, upon palpation, feel any foreign bodies. He opined that the dog possibly was suffering from gastritis or gastroenteritis. Ms. Rehark asked whether, based on the dog's previous history of eating foreign objects, a barium x-ray should be done. Dr. Cerelli declined to do so since he could not palpate a foreign body. Dr. Cerelli suggested that if the dog continued vomiting, they might need to consider

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abdominal radiographs. He gave Ms. Rehark some anti-nausea medication and a can of dog food to make the dog's stool firm, and discharged "Briain" to Ms. Rehark's care.

3. During the evening, "Briain" developed diarrhea. Ms. Rehark called Dr. Cerelli and arranged to meet him with her dog at the clinic at around 5:00 a.m. Dr. Cerelli determined that the dog's PCV was 72 percent and opined that "Briain" probably ate some grass contaminated with mold. Again, palpation did not reveal a foreign body. Dr. Cerelli told Ms. Rehark that the dog had a 10 percent chance of survival. Dr. Cerelli told Ms. Rehark that the likely diagnosis was HGE or possible salmonella poisoning from the cow hooves. Dr. Cerelli hospitalized the dog and began fluid therapy, banamine and antibiotics. Although the dog had developed diarrhea, and his general condition had declined, Dr. Cerelli did not order radiographs because the dog presented almost comatose and needed immediate treatment. However, at around noon, Dr. Cerelli called Ms. Rehark and reported that the dog's PCV was improved and the chances of his survival had also improved, although "Briain" passed bloody diarrhea throughout the day. Dr. Cerelli did not communicate further with Ms. Rehark that day. At around 7:55 a.m. on June 19<sup>th</sup>, Dr. Cerelli called Ms. Rehark to report that "Briain" had died. Dr. Cerelli suggested that Ms. Rehark keep her grass cut short to avoid a similar problem with her other dog.

4. Ms. Rehark picked up her dog's body and presented it to Dave Brown, D.V.M., her regular veterinarian, whose associate had previously performed abdominal surgery on "Briain" to remove foreign objects from the dog's digestive tract. Dr. Brown performed a necropsy and found severe advanced peritonitis from a perforated intestine, probably caused, in Dr. Brown's opinion, from the cow hoof that the dog passed before he died. Dr. Brown stated there was no chance for "Briain" to survive without abdominal surgery.

5. Based on the patient's prior history of ingested foreign bodies and abdominal surgeries to remove them, Dr. Cerelli should have utilized more aggressive diagnostic procedures that took these factors into account. The client asked whether barium studies should be done based on the patient's history but they were not provided. Abdominal radiographs were offered instead and declined. If a barium study had been done, a foreign body may have been revealed, and any perforation would also have been discovered. Dr. Cerelli would then have been able to surgically remove the foreign body and repair any perforation that existed. Dr. Cerelli believed that further diagnostics were unnecessary because palpation did not show a foreign body to be present. Dr. Cerelli's diagnosis and treatment of the patient do 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 the Mcallen-Edinburg area, or similar areas.

#### 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 1-5, 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 Conclusion of Law 2, 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.

§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 Justin Cerelli, D.V.M., be FORMALLY 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 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, JUSTIN CERELLI, 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.

*Justin Cerelli*  
Justin Cerelli, D.V.M.

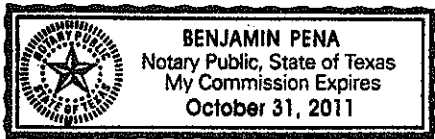
1-26-09  
Date

STATE OF TEXAS §  
COUNTY OF HIDALGO §

BEFORE ME, on this day, personally appeared Justin Cerelli, 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 26<sup>th</sup> day of JANUARY, 2009.

*Benjamin Pena*  
Notary Public



SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on February 12, 2009.

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