

DOCKET NO. 2002-01

RECEIVED

IN THE MATTER OF

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TEXAS STATE BOARD OF

DEC 03 2001

THE LICENSE OF

§

State Board of Veterinary
Medical Examiners

JOANNA CHAO, D.V.M.

§

VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this the 21st day of February, 2002 came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of Joanna Chao, D.V. M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on October 4, 2001. The Respondent attended 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 her understanding of the alleged violations and the adequacy and sufficiency of the notice provided to 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 April 28, 1999 Amy C. Berger, Irving, Texas presented her Boxer "Dutchess" to Joanna Chao, D.V.M., Metroplex Veterinary Center, Irving, Texas for an ovariohysterectomy (spay). The surgery was performed on that date and recovery of the dog was uneventful.
2. On November 20, 1999 Ms. Berger presented her dog to the Metroplex Veterinary Center for a bladder infection. Tracey L. Deiss, D.V.M., examined the dog and discovered estrus indications. Dr. Deiss recommended a laparotomy to find and remove ovarian tissue left from Dr. Chao's surgery. Dr. Deiss performed the surgery on December 3, 1999. Dr. Deiss examined the right kidney and noticed a 5 to 7 mm "liver like" tissue attached to the caudal pole of the kidney. She believed that the tissue was ovarian. The tissue was excised and sent to histopathology which revealed that the tissue was benign oviduct. No ovarian tissue was found.
3. In September, 2000 Ms. Berger informed the Metroplex Veterinary Center that "Dutchess" was again showing signs of heat. On September 25, 2000 a third veterinarian, W. W. Alger,

D.V. M., who was not associated with the Metroplex Veterinary Center, performed exploratory surgery on the dog. The surgery was paid for by the Metroplex Veterinary Center. During the surgery, the left ovarian region was examined and no ovarian tissue was found. Dr. Alger examined the right ovarian region and found a mass palpable within the fat caudal to the right kidney. The mass was suggestive of ovary. The tissue was removed and sent to histopathology which confirmed that the tissue was ovarian.

4. Dr. Chao's failure to completely remove the ovaries of the dog which led to two other surgeries to correct the problem, do not constitute 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 Irving, 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 4, 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 1 through 4 and Conclusions of Law 1 through 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;

(5) impose a civil 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 Joanna Chao, D.V.M., be assessed a CIVIL PENALTY of two hundred and fifty dollars (\$250), payable within 45 days of the date of adoption of this order.

The Board further ADOPTS the following terms and conditions:

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, the notice, Findings of Fact and Conclusions of Law herein set forth, 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 acknowledges that she has 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, JOANNA CHAO, D.V.M., HAVE READ AND UNDERSTAND THE FOREGOING

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

I, JOANNA CHAO, 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.

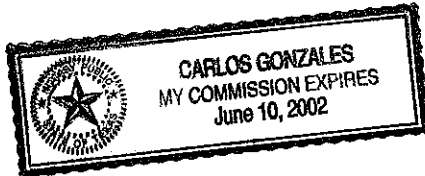

Joanna Chao, D.V.M.

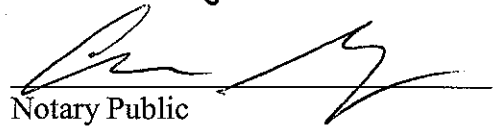
Date Nov. 29, 2001

STATE OF TEXAS §
COUNTY OF Bexar §


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

Given under the hand and seal of office this 29 day of November, 2001.




Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 29th day of NOVEMBER, 2002.


Martin Garcia, D.V.M., President