

DOCKET NO. 2008-06

IN THE MATTER OF § TEXAS BOARD OF
THE LICENSE OF § VETERINARY
RICHARD A. DENNIS, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this the 14th day of February, 2008, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of David Guitar, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on November 30, 2007. 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 15, 2006, Dick Townsend, of Pembroke, New Hampshire, presented "Experience Counts", a five year-old male Quarter Horse to Richard A. Dennis, D.V.M., Ph. D., Pilot Point, Texas, of the R.A. Dennis & Associates Veterinary Hospital (RADAVH) for a pre-purchase examination. Dr. Dennis performed the examination and determined that the horse was free of any abnormalities. Radiographs were taken during the examination.
2. On June 26, 2006, Mr. Townsend requested RADAVH send the radiographs taken on June 15, 2006 to him. On July 3, 2006, Mr. Townsend requested for a second time RADAVH send the radiographs taken on June 15, 2006 to him. On December 28, 2006, Mr. Townsend requested for a third time RADAVH send the radiographs taken on June 15, 2006 to him. On January 11, 2007 Mr. Townsend requested for the fourth time RADAVH send the radiographs taken on June 15, 2006 to him. Staff from RADAVH promised he would receive the records by January 13, 2007. On January 16, 2007, Mr. Townsend requested for a fifth time RADAVH send the radiographs taken on June 15,

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2006 to him. RADAVH staff again promised Mr. Townsend he would receive the radiographs by January 19, 2007. On January 26, 2007, Mr. Townsend requested for the sixth time RADAVH send the radiographs taken on June 15, 2006 to him. On March 23, 2007, Mr. Townsend received seven radiographs from Dr. Dennis. The radiographs were of poor quality and did not identify which hoof of the horse was radiographed.

3. Mr. Townsend sold "Experience Counts" under the notion that the horse was in good condition. On December 28, 2006 and January 17, 2007, "Experience Counts" new owner had the horse's feet radiographed, revealing the horse had navicular changes.

4. Dr. Dennis' failure to timely provide the radiographs from the examination after multiple requests by the client, extending over a period of approximately 10 months, does not meet the requirements set forth under the Board rules for timely provision of patient records upon request.

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 Finding of Facts 1 through 4, Respondent has violated Rule 573.52 PATIENT RECORD KEEPING, of the Board's Rules of Professional Conduct, which requires veterinarians to furnish a copy of any radiographs requested by the client within 15 business days of the request.

3. Based on Finding of Facts 1 through 4 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.

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

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Richard A. Dennis, D.V.M., be INFORMALLY 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, RICHARD A. DENNIS, 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.

Richard A. Dennis
Richard A. Dennis, D.V.M.

12-12-2007
Date

STATE OF TEXAS §
COUNTY OF Denton §

BEFORE ME, on this day, personally appeared Richard A. Dennis, 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 12th day of DECEMBER, 2007.



Ann H. Lanning
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 14th day of February, 2008.

Dr. Robert Lastovica
Robert Lastovica, D.V.M., President
Patrick Allen, DVM
Vice-President