

AGREED ORDER 2009-30

IN THE MATTER OF                    §            TEXAS BOARD OF  
THE LICENSE OF                    §            VETERINARY  
R.A. DENNIS, 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 R.A. Dennis, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on January 9, 2008. The Respondent was present at the informal settlement conference. 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 Agreed Order. In waiving an adjudicative hearing, Respondent acknowledges his understanding of the alleged violations and the adequacy and sufficiency of the notice provided 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 February 9, 2005, Janet Mathis of Aubrey, Texas, presented "PK", an eight month-old female Domestic Shorthair cat to Richard A. Dennis, D.V.M., Pilot Point, Texas, of R.A. Dennis & Associates Veterinary Hospital, for a spay surgery and declaw. A few months after the surgery, Ms. Mathis spoke to Respondent about the spay procedure as "PK" was still exhibiting heat cycles. Respondent assured Ms. Mathis that the spay procedure had been conducted and that it could take up to two years for all of the hormones to subside.
2. On May 8, 2008, Ms. Mathis presented "PK" to Dr. Lucette Beall, D.V.M., of the Aubrey Animal Medical Center, in Aubrey, Texas for a second opinion. Dr. Beall performed exploratory surgery and located an attached left ovary. According to the medical records of Dr. Beall, an intact left ovary with the uterine horn attached was found in "PK." Dr. Beall removed the left

ovary and left uterine horn at the uterine body.

3. Respondent failed to properly perform the spay surgery, by leaving an intact left ovary in "PK." This 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 Pilot Point, Texas, or similar communities. By leaving an intact ovary inside "PK" during the spay procedure, Respondent failed to provide Ms. Mathis the treatment that was offered to her, and paid for by her, for "PK's" heat symptoms and prevention of future unwanted pregnancies.

### 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 Fact 1-3, 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 Finding of Fact 1-3 and Conclusion of Law 2, Respondent has violated §801.402(6) of the Veterinary Licensing Act (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 through 3, Respondent is subject to disciplinary action under §801.401 of the 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 Respondent be INFORMALLY REPRIMANDED.

The Board further ORDERS that:

1. Respondent shall abide by the Rules of Professional Conduct, the 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 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 to 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, **R.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.

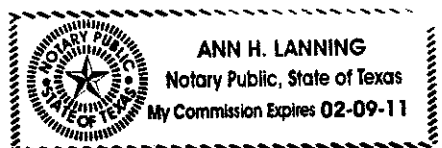
*Richard A. Dennis*  
R.A. Dennis, D.V.M.

2/6/09  
Date

STATE OF TEXAS §  
COUNTY OF DENTON §

BEFORE ME, on this day, personally appeared R.A. Dennis, 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 6<sup>th</sup> day of February, 2009.



*Ann H. Lanning*  
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the \_\_\_ day of \_\_\_\_\_, 2009.

*Bud E. Alldredge, Jr.*  
Bud E. Alldredge, Jr., DVM

