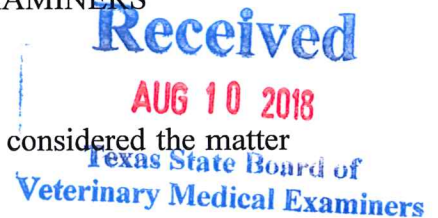


IN THE MATTER OF § TEXAS BOARD OF  
THE LICENSE OF § VETERINARY  
LU ERVIN, D.V.M. § MEDICAL EXAMINERS

**AGREED ORDER**

On this day the Texas Board of Veterinary Medical Examiners (“Board”) considered the matter of the license of Lu Ervin, D.V.M. (“Respondent”).



Respondent, without admitting the truth of the Findings of Fact and Conclusions of Law set out in this Order, waived notice and hearing and agreed to the entry of this Order. Accordingly, the Board makes the following Findings of Fact and Conclusions of Law and enters this Order as set forth below.

**FINDINGS OF FACT**

1. Respondent, Lu Ann Ervin, D.V.M., of Waco, Texas, holds Texas veterinary license 5474.
2. On June 3, 2016, Casey Humphries’s one year old dog, Remi, jumped out of a moving truck and injured her right hind leg. Ms. Humphries’s boyfriend, Scott Huff, presented Remi to Respondent at Texas Animal Medical Center in Waco, Texas. Respondent performed radiographs which confirmed that Remi’s leg was broken. Respondent recommended surgery and placement of an intramedullary (IM) pin to stabilize the leg, and Ms. Humphries agreed. Respondent administered dexdomitor for sedation and applied a splint for temporary stabilization. Remi was hospitalized overnight. Respondent’s medical records do not include details of Remi’s overnight hospitalization.
3. On June 4, 2016, Respondent administered dexdomitor and began to prepare for surgery. Respondent stated that her technician refused to assist with the surgery alone and left the facility. Respondent stated that she attempted to place an IM pin into the tibia and down into the distal bone. Respondent then stated that she took a radiograph which showed that the IM pin was not going into the distal bone segment. Respondent stated that she attempted the procedure again but could not achieve the appropriate angle and believed there was too much pressure on the bone. At that time, Remi roused from the dexdomitor, so Respondent pulled out the pin, built a Thomas splint, applied traction to the limb, and secured the splint to Remi’s leg. Respondent administered injectable flunixinime and injectable gentamicin. Respondent’s medical records do not include details of the procedures attempted or the treatment provided.
4. Respondent discharged Remi on June 7, 2016. Respondent told Ms. Humphries that she had attempted to place the IM pin but was unable to complete the procedure because the bone

was too unstable and splintered when drilling was attempted. Ms. Humphries believed that surgery had been attempted.

5. On June 10, 2016, Ms. Humphries presented Remi to Respondent with concerns of pus coming from the splint. Respondent's medical records state that she did not observe a wound or splint sore. Respondent sedated Remi and rewrapped the limb. On June 12, 2016, Remi was again presented to Respondent after the splint slipped several inches. Respondent again sedated Remi and adjusted the splint.

6. On June 14, 2016, Ms. Humphries observed a foul odor coming from Remi's splint. Upon pulling down the top portion of the splint, Ms. Humphries observed a large open wound with yellow and green drainage. Remi was again presented to Respondent. Respondent recommended that Remi be hospitalized for a few days for administration of a simple splint and antibiotics. On July 16, 2016, Ms. Humphries returned to visit Remi and noted that she appeared to be in pain. Ms. Humphries decided to take Remi to another veterinarian for a second opinion. Respondent initially refused to release Remi and stated that it was unsafe to transport her. Respondent has no medical records documenting this two day hospitalization or any of the treatment provided.

7. Later that day, Ms. Humphries presented Remi to Jered Johnston, D.V.M., at South Bosque Veterinary Clinic in Waco, Texas. Dr. Johnston examined Remi and concluded that the splint was not appropriately supporting the fracture, and in fact was causing increased instability. Dr. Johnston observed a large wound on Remi's medial thigh that was exuding purulent discharge and had a foul odor. Dr. Johnston sedated Remi, took radiographs, treated the wound, and placed a new splint. Dr. Johnston stated that he saw no evidence to indicate Respondent had attempted surgery or placement of an IM pin. Dr. Johnston then referred Ms. Humphries to Ed Kahil, D.V.M., in Copperas Cove, Texas.

8. On June 20, 2016, Ms. Humphries presented Remi to Dr. Kahil. Dr. Kahil saw no evidence that Remi's hair had been clipped for surgery, no evidence of an incision to indicate an open approach for pin placement, nor any evidence of a pin introduction site if a closed pin placement had been attempted. Dr. Kahil performed surgery and placed an IM pin. Remi recovered normally.

### **CONCLUSIONS OF LAW**

1. Pursuant to Texas Occupations Code, Chapter 801, the Board has jurisdiction over this matter. Respondent is required to comply with the provisions of the Veterinary Licensing Act, Chapter 801, Texas Occupations Code, and with the Board's Rules. Respondent received notice as required by law.

2. Respondent has violated Board Rule 573.22, Professional Standard of Care, of the Board's Rules of Professional Conduct.

3. Respondent has violated Board Rule 573.52, Veterinarian Patient Record Keeping, of the Board's Rules of Professional Conduct.

4. Respondent has violated Section 801.402(6) of the Veterinary Licensing Act, Texas Occupations Code.
5. Respondent is subject to disciplinary action under Texas Occupations Code, Sections 801.401(a), and 801.451.
6. Pursuant to Board Rule 575.25, Respondent's violations are Class B violations, and Respondent is subject to disciplinary action under that Rule.

### **TERMS OF ORDER**

Now, therefore, the Board and Respondent agree to the following terms:

#### 1. SUSPENSION AND PROBATION

- a. Respondent's license shall be suspended for 5 years from the effective date of this order, with said suspension stayed and Respondent placed on probation for the entire period of the suspension.
- b. If Respondent does not timely and satisfactorily comply with any of the terms of this Order, the Board may rescind Respondent's probation pursuant to Board Rule 575.36.

#### 2. REPRIMAND

- a. Respondent is hereby formally reprimanded by the Board. This formal reprimand may be published in the Board's newsletter and routinely reported to the American Association of Veterinary State Boards (AAVSB) for inclusion in the national reporting database.

#### 3. ADMINISTRATIVE PENALTY

- a. Respondent shall pay an administrative penalty of two thousand and five hundred dollars (\$2,500.00) within 30 days of the date the Board approves this Order. Payment shall be made directly to the Texas Board of Veterinary Medical Examiners at 333 Guadalupe Street, Suite 3-810, Austin, Texas 78701. Partial payments will not be accepted.
- b. If Respondent does not timely pay the administrative penalty, the Board may deny a request to renew Respondent's license until the outstanding administrative penalty is received, pursuant to Board Rule 573.62(b). Any monetary funds paid to the Board to renew a license shall first be applied to any outstanding unpaid administrative penalties, pursuant to Board Rule 571.57. Additionally, the matter may be referred to the Attorney General for collection, pursuant to Texas Occupations Code, Section 801.458.

4. CONTINUING EDUCATION

- a. In addition to the annual continuing education required for license renewal, Respondent shall complete three (3) hours of continuing education in the area of patient record keeping and six (6) hours in the area of orthopedic surgery within one year of the date the Board approves this Order. These hours shall be in addition to Respondent's annual continuing education requirements. Respondent shall submit documentation of the completed continuing education penalty and the required annual continuing education to the Board within one year and 30 days of the date the Board approves this Order. Documentation shall be submitted directly to the Texas Board of Veterinary Medical Examiners at 333 Guadalupe Street, Suite 3-810, Austin, Texas 78701.

5. REFUND TO CLIENT

- a. Respondent shall refund \$1,184 to Casey Humphries within 30 days of the date the Board approves this Order. Payment is to be made directly to Casey Humphries. Partial payments are not acceptable.
- b. Respondent shall submit documentation of the refund to the Board within 45 days of the date the Board approves this Order. Documentation shall be submitted to the Texas Board of Veterinary Medical Examiners at 333 Guadalupe Street, Suite 3-810, Austin, Texas 78701.

6. ADHERENCE TO THE LAW AND BOARD RULES

- a. Respondent shall abide by the Board's Rules of Professional Conduct, the Texas Veterinary Licensing Act, and the laws of the State of Texas and the United States.
- b. Respondent shall cooperate with the Board's attorneys, investigators, compliance officers and other employees and agents investigating Respondent's compliance with this Order.
- c. Failure by Respondent to comply with the terms of this Order, or with any other provisions of the Veterinary Licensing Act or the Board Rules, may result in further disciplinary action.

The effective date of the terms of this Order shall be the date it is adopted by the Board, unless stated otherwise.

*Certification and signature page follows.*

**RESPONDENT'S CERTIFICATION**

I understand that I have the right to legal counsel prior to signing this Order. I waive representation by counsel. I have reviewed this Order and understand the Findings of Fact and Conclusions of law set forth herein. I neither admit nor deny the violation(s) herein. I understand that this Order contains the entire agreement, and there is no other agreement of any kind. I waive the right to any further proceedings, including a formal hearing, and the right to seek judicial review of this Order.

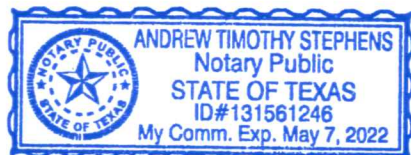
I understand that this Order is subject to approval by the Board. I understand that the terms and conditions of this Order become effective upon approval by the Board. A copy of the approved Order will be mailed to me. By signing this Order, I agree to satisfactorily comply with the terms and conditions of the Order in a timely manner. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and appropriate disciplinary action as a result of my noncompliance.

Signed this 6 day of Aug, 2018.

Lu Ervin D.V.M.  
Lu Ervin, D.V.M.

Sworn and subscribed before me this 6 day of August, 2018.

SEAL:



Andrew Timothy Stephens  
Notary Public

THEREFORE, the Texas Board of Veterinary Medical Examiners does hereby adopt this Order. This Order is effective and final on this 23rd day of October, 2018.

Jessica Quillivan  
Jessica Quillivan, D.V.M., Presiding Board Member