

DOCKET NO. 2003-36

IN THE MATTER OF § TEXAS STATE BOARD OF
THE LICENSE OF §
ROGER FREUND, D.V.M. § VETERINARY MEDICAL EXAMINERS

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TEXAS STATE BOARD OF
VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this the 16th day of October, 2003 came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of Roger Freund, D.V. M ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on September 16, 2003. The Respondent waived his attendance. 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 September 4, 2001, Mary Holguin, El Paso, Texas, presented her Shitzu, "Spencer," to Roger Freund, D.V.M., El Paso, Texas, for removal of his anal glands. The dog had a recent history of anal gland impactions. Dr. Freund recommended removal of the anal glands, and the surgery was performed on the same day. The dog was started on Clavamox and discharged to home care. Dr. Freund noted in the patient records that both glands were severely scarred and that he was concerned that some pieces of the glands may not have been removed, but this information was not conveyed to Ms. Holguin at the time of surgery.
2. On September 7, 2001, Ms. Holguin returned to the clinic with "Spencer." Dr. Freund found that the dog had developed a draining tract on the right side. A collar was placed on the dog. On September 10, 2001, Ms. Holguin returned with "Spencer" because the wound was still draining. The dog was left at the hospital and the wound finally healed by September 13th.
3. On June 15, 2002, Ms. Holguin presented her dog to Margie Zavala, D.V.M., at the Crossroads Animal Hospital, El Paso, Texas, because the dog was scooting on his back end and

had developed diarrhea. Dr. Zavala found that the perineum and anus were erythemic and stained with diarrhea. She cleansed the area and placed the dog on antibiotics and a steroidal anti-inflammatory. On September 7, 2002, Ms. Holguin returned with "Spencer" with the same complaint. Another veterinarian at the Crossroads clinic treated the dog with topical and systemic antibiotics.

4. Two weeks later, Ms. Holguin again returned to the Crossroads clinic and said that the dog was scooting on his rear end and appeared to be in pain. On rectal palpation, Dr. Zavala expressed material from both anal glands. On September 23, 2002, another veterinarian at the clinic, Dr. Jim Koschmann, confirmed the presence of both anal glands. Dr. Koschmann notified Dr. Freund of his findings. After several weeks of continued problems with the dog, Ms. Holguin consented to surgery by Dr. Koschmann to remove the anal glands. As of March 2003, the dog has recovered normally.

5. Dr. Freund's failure to completely remove the patient's anal glands, with the result that the patient had to have additional surgery to remove them, and his failure to inform the client at the time of surgery that gland removal may have not been complete, 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 community in El Paso, 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 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 Findings of Fact 1 through 5 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 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 Roger Freund, D.V.M., be OFFICIALLY REPRIMANDED.

The Board further ORDERS that Respondent pay a CIVIL PENALTY of FIVE HUNDRED DOLLARS (\$500.00), payable within 45 days of the date of this Order

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.

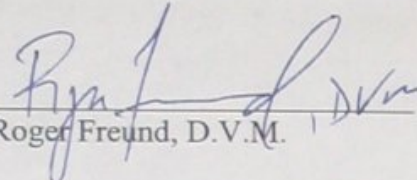
Respondent, by signing this Agreed Order, waives his right to a formal hearing and any right to seek judicial review of this Agreed Order. Respondent acknowledges that he waived representation by legal counsel in this matter.

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, ROGER FREUND, 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.



Roger Freund, D.V.M.

Date 10/7/03

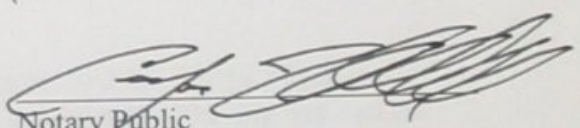
STATE OF TEXAS §
COUNTY OF EL PASO §

BEFORE ME, on this day, personally appeared ROGER FREUND, 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 7 day of October, 2003.

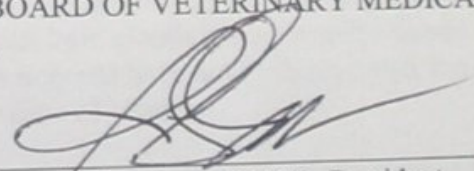


10-7-05
El Paso TX



Notary Public

SIGNED AND ENTERED BY the TEXAS STATE BOARD OF VETERINARY MEDICAL
EXAMINERS on this the 16th day of October, 2003.



J. Lynn Lawhon, D.V.M., President