

the small intestine, but was negative for foreign objects. Dr. Gieb recommended that "Annie" be left overnight in their care. Dr. Gieb stated that the next day he would draw the fluid and then take a new radiograph.

3. The following day, Mrs. McAllister waited to hear from Dr. Gieb, with no word. At 2:30 p.m., Mrs. McAllister called to check on "Annie." The staff stated Dr. Gieb was at lunch and no one was able to tell her anything. Mrs. McAllister was told Dr. Gieb would call her when he returned to the clinic. Mrs. McAllister waited an hour and called again. Mrs. McAllister was told this time that Dr. Gieb was busy with patients. Mrs. McAllister then asked to speak to someone that could update her on "Annie's" condition and was told everyone was busy. Mrs. McAllister stated to the staff that she was tired of the runaround and needed someone to call her back with "Annie's" condition. Dr. Gieb then called her husband, Mr. McAllister to inform him that "Annie" had died. Dr. Gieb stated that he did not have any time to treat "Annie" as he was short of staff and very busy.

4. Dr. Gieb's failure to follow up or continue in his treatment of "Annie" on December 4, 2009 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 Springtown, Texas, or similar communities.

5. Dr. Gieb also failed to document details necessary to substantiate the examination, diagnosis, and treatment provided.

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 3, 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 the above Findings of Fact, Respondent has violated Rule 573.52 PATIENT RECORD KEEPING, which requires veterinarians to document details necessary to substantiate the examination, diagnosis, and treatment provided.

4. Based on the above Findings of Fact 1 through 5 and Conclusions of Law 1 through 3,

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.

5. Based on Conclusions of Law 1 through 4, 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

.... (d) In addition to other disciplinary actions authorized by this subchapter, the board may require a license holder who violates this chapter to participate in a continuing education program.

5. Based on Conclusions of Law 1 through 3, the Board may order the license holder to refund an amount not to exceed the amount a client paid to the license holder instead of or in addition to imposing an administrative penalty, under Section 801.408 of the Veterinary Licensing Act, Texas Occupations Code.

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

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that James Gieb, D.V.M., be FORMALLY REPRIMANDED.

In addition, the Board ORDERS that James Gieb, D.V.M. complete an additional THREE (3) hours of continuing education in recordkeeping within one year of the date of this order. Documentation of the completion of the continuing education penalty shall be received within thirty (30) days of the end of the period to complete the continuing education. If Respondent

fails to provide documentation of completion within forty-five (45) days of the end of the period to complete the continuing education, further enforcement action will be taken.

The Board further ORDERS that within 30 days of the date of this Order Respondent either send notification to the client of cancellation of the account payable, or pay to the client RESTITUTION of ONE HUNDRED SEVENTY FOUR DOLLARS (\$174.00). If Respondent fails to either pay the restitution or send notification to the client of cancellation of the account payable, whichever is applicable, within 30 days of the date of this Order, enforcement action will be taken.

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. 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, **JAMES GIEB, 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.

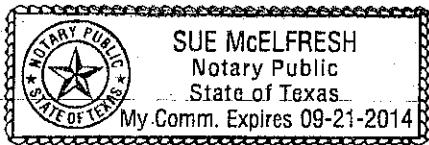
James Gieb
James Gieb, D.V.M.

5/10/11
Date

STATE OF TEXAS §
COUNTY OF TARRANT §

BEFORE ME, on this day, personally appeared JAMES GIEB, 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 10th day of May, 2011.



Sue McElfresh
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 28 day of June, 2011.

Bud E. Allredge, Jr.
Bud E. Allredge, Jr., D.V.M.
President