

DOCKET NO. 2010-68

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

AGREED ORDER

On this the 27 day of March, 2012, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of James M. Greenwell, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on March 23, 2010. The Respondent was represented by counsel, Donald Ferrill. 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 12, 2009, Cathy Taylor of Plano, Texas, dropped off "Baby," her three and one-half year old female terrier dog at Legacy Coit Animal Hospital (LCAH) with James M. Greenwell, D.V.M. in Plano, Texas. Mrs. Taylor was concerned about "Baby's" losing weight and lethargic condition. Mrs. Taylor also specifically requested that Addison's disease be ruled out when she originally made the appointment and signed a consent form specifically requesting wellness testing and testing for Addison's disease.
2. Later that same day, Mrs. Taylor received a phone call that "Baby" was ready to be picked up. Mrs. Taylor stated that no phone calls were received from LCAH related to the tests that would be conducted or what the findings were from the tests. LCAH contends that information was contained on the written consent form that Mrs. Taylor signed. Mrs. Taylor's husband picked up the dog and was presented a bill for \$825.76. Mr. Taylor paid his bill and had no issues with the amount or services rendered at that time. Mr. Taylor was told by Kendall, an LCAH staff member, that "Baby's" Relaxin

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test was performed "in house" and was negative and that the other diagnostic test results would be available in a few days, as they would be sent out to the reference laboratory.

3. On June 15, 2009, Mrs. Taylor claims she called LCAH to discuss the bill; however, LCAH records show that Mrs. Taylor did not call about her bill until July 1, 2009. Mrs. Taylor claims she asked to have Dr. Greenwell call her to review the bill. Mrs. Taylor spoke with Kendall at some point, reviewing the bill with Mrs. Taylor, and told her that Dr. Greenwell does not handle billing issues. Mrs. Taylor stated that she did not consent to \$800 worth of testing. Mrs. Taylor asked for Dr. Greenwell to call her. Kendall stated that she would be the person handling the billing questions.

4. According to Mrs. Taylor, she called LCAH on Sunday, June 21st and Sunday, June 28th, 2009. LCAH was not open on those Sundays.

5. According to Mrs. Taylor, on July 24, 2009, she called LCAH and left a message with Kendall asking for Dr. Greenwell to call her regarding the bill and not receiving the test results. She claims that Kendall again informed Mrs. Taylor that Dr. Greenwell does not handle billing. LCAH records do not reflect that this call was ever made. Later that day, when Mrs. Taylor returned home for work, she discovered that "Baby" had given birth to a single, full term puppy that appeared to be stillborn. Mrs. Taylor refused Dr. Greenwell's request to bring the puppy into the hospital for Dr. Greenwell to examine.

6. Dr. Greenwell has added to all consent forms an area specifically getting the client's written consent if an estimate or treatment plan is requested or not. Dr. Greenwell did not want any further confusion to exist at the hospital regarding this issue. Dr. Greenwell has also added audio and video recording capability to the hospital to document discussions with clients and patient treatments.

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 573.26, HONESTY, INTEGRITY, AND FAIR DEALING, of the Board's Rules of Professional Conduct, which requires veterinarians to conduct their practice with honesty, integrity and fair dealing to clients in time and services rendered, and in the amount charged for services, facilities, appliances and drugs.

3. Based on the above Findings of Fact 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 James M. Greenwell, 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 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 M. GREENWELL, 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.

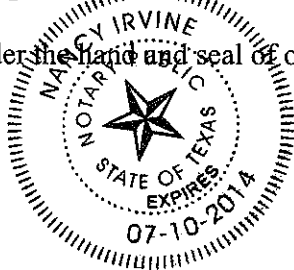
James M. Greenwell
James M. Greenwell, D.V.M.

2-10-2012
Date

STATE OF TEXAS §
COUNTY OF Collin §

BEFORE ME, on this day, personally appeared JAMES M. GREENWELL, D.V.M., known to me as the person whose name is subscribed to the foregoing documents, and acknowledged to me that he executed the same for the purposes stated herein.

Given under the hand and seal of office this 10TH day of Feb, 2012.



Nancy Irvine
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 27 day of March, 2012.

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

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