

DOCKET NO. 2008-03

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

AGREED ORDER

On this the 14th day of February, 2008, came on to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of David Guitar, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on August 20, 2007. The Respondent was represented by counsel, Susan Henricks. 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 the evening of December 7, 2006, Barbara Jennings, May, Texas, called David Guitar, D.V.M., Brownwood, Texas, concerning a quarter horse that might have colic. Ms. Jennings was boarding the horse, and was not the owner. Dr. Guitar requested that Ms. Jennings bring the horse to her clinic, but she declined to do so. Dr. Guitar and his wife arrived at Ms. Jennings' stable to examine the horse. A friend of Ms. Jennings, June Broussard met them and sought to assist them in examining the horse. The horse was standing outside near the stable when Dr. Guitar arrived. Ms. Jennings had treated the horse with a prescription medication, "Banamine," before their arrival.
2. Dr. Guitar encountered difficulties in trying to examine the horse due to a combination of factors, including dark, cold and windy conditions, the lack of appropriate facilities at the stable for examining the horse, uncontrolled barking dogs underfoot and lack of experienced, capable

staff to assist in handling the distressed animal.

3. As Dr. Guitar was attempting to remove the many overlapping blankets from the horse and check his vital signs, the horse could not be still. At that point, Dr. Guitar began cursing and called Ms. Broussard a curse word. Dr. Guitar moved the horse inside the barn to a stall. The horse remained very agitated and threw himself on the floor of the stall, knocking Dr. Guitar's wife to the ground as well. Dr. Guitar became very upset when he discovered that Ms. Jennings had locked the stall door from the outside, confining himself, his wife and Ms. Broussard in the stall with the increasingly distressed horse. Dr. Guitar was frightened and upset and continued to unleash a barrage of curses and profanity in his state of excitement. Dr. Guitar removed the horse from the stall and was still unable to complete the examination, due to Ms. Broussard's inability to assist in controlling the animal. Dr. Guitar was frustrated and distressed by the situation, and expressed his frustration using profanity again. Ms. Jennings then directed Dr. Guitar to leave the premises and Dr. Guitar vehemently advised that if he left the premises he would not return later to treat the horse. Dr. Guitar and his wife then left the premises.

4. Ms. Jennings then called another veterinarian at the Equine Sports Medicine and Surgery Clinic in Weatherford, Texas, about 100 miles away. Eventually, with the assistance of Jerry Conway, D.V.M., Ms. Jennings was able to load the horse into a trailer and deliver him to the clinic, but the veterinarians were unsuccessful in their attempts to treat the horse. He was then euthanized.

5. Dr. Guitar's loss of temper and control in attempting to treat the horse in a challenging situation and failure to provide any pain medication to the horse prior to leaving 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 Brownwood, 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 Facts 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 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 David Guitar, D.V.M., be FORMALLY 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 herein set forth herein, and agrees that he will satisfactorily comply with the mandates of the Agreed Order in a timely manner or be

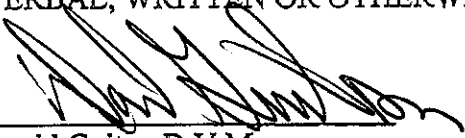
subject to appropriate disciplinary action by the Board.

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. 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, DAVID GUITAR, 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.


David Guitar, D.V.M.

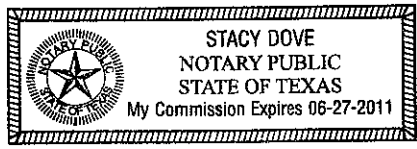
1.31.08
Date

STATE OF TEXAS §
COUNTY OF Brown §


BEFORE ME, on this day, personally appeared DAVID GUITAR, 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 31 day of January, 2008.


Notary Public



SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 14th day of February, 2008.


Patrick Allen, D.V.M.,
Vice-President