

DOCKET NO. 2008-80

IN THE MATTER OF § TEXAS BOARD OF  
THE LICENSE OF § VETERINARY  
EDDIE J. HAYES, D.V.M. § MEDICAL EXAMINERS

**AGREED ORDER**

On this the 16 th day of October, 2008, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Eddie J. Hayes, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on July 29, 2008. The Respondent waived his right to an informal conference and did not appear. 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 their understanding of the alleged violations and the adequacy and sufficiency of the notice provided to them.

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 November 6, 2007, Ninfa Garza of Corpus Christi, Texas, presented "Fat Girl", a five year-old female English Bulldog to Eddie J. Hayes, D.V.M., Corpus Christi, Texas, of Baldwin & Crosstown Animal Clinic for breathing difficulties.
2. Dr. Hayes examined "Fat Girl." "Fat Girl's" respiration was elevated and had a II/VI grade heart murmur. "Fat Girl" was not current on her heartworm prevention. Dr. Hayes ordered a heartworm test, which was negative. Dr. Hayes administered a Baytril/Dexamethasone SQ injection and dispensed Predisone 20 mg and Cephalexin 500 mg. Dr. Hayes did not take a chest radiograph. On the morning of November 8, 2007, "Fat Girl" was presented again for open mouth breathing. Dr. Hayes immediately placed the dog on oxygen. Dr. Hayes informed Ms. Garza that the dog needed to be hospitalized at an emergency clinic with the appropriate equipment and support staff (no in-house blood laboratory and non-functioning radiographic

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equipment). "Fat Girl" passed away in transit to the emergency clinic. Dr. Hayes stated he did not initially refer "Fat Girl" to an emergency clinic, as her condition was not serious at the time.

3. Dr. Hayes' failure to radiograph or refer to a veterinarian with radiographic capabilities on November 6, 2007 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 Corpus Christi, Texas or similar communities. Dr. Hayes' failure to radiograph or refer to a veterinarian with radiographic capabilities when "Fat Girl" was presented with breathing difficulties delayed appropriate treatment and contributed to the premature death of "Fat Girl."

### **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 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 Finding of Fact 3 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 Eddie J. Hayes, D.V.M., be INFORMALLY REPRIMANDED.

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Respondent pay, within 30 days of the date of this Order, RESTITUTION of NINETY SEVEN DOLLARS AND FIFTY CENTS (\$97.50). If Respondent fails to pay the restitution 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 their understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law herein set forth herein, and agrees that they will satisfactorily comply with the mandates of the Agreed Order in a timely manner or be subject to appropriate disciplinary action by the Board.

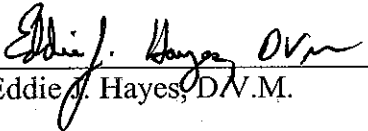
Respondent, by signing this Agreed Order, waives their right to a formal hearing and any right to seek judicial review of this Agreed Order. Respondent acknowledges that they had the right to be represented by legal counsel in this matter.

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, **EDDIE J. HAYES**, 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.

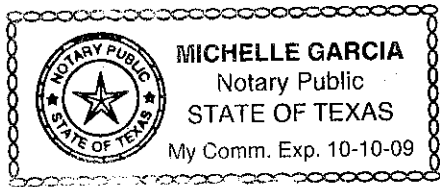
  
Eddie J. Hayes, D.V.M.


8-26-08  
Date

STATE OF TEXAS §  
COUNTY OF Nueces §

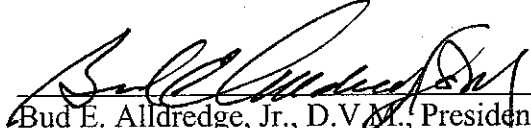
BEFORE ME, on this day, personally appeared EDDIE J. HAYES, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that he executed the same for the purposes stated therein.

Given under the hand and seal of office this 26<sup>th</sup> day of Aug, 2008.



  
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 16 DAY OF OCT, 2008.

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