

4. On March 15, 2012, Vernoda Brundidge presented her one-year old male Pomeranian dog named "Scooter Boo" to Respondent at the Clinic. Respondent tested "Scooter Boo" for heartworm, determined that he was negative for heartworm, and prescribed heartworm preventative. Respondent also vaccinated "Scooter Boo" for bordetella, coronavirus, distemper, hepatitis, parvo and parainfluenza.
5. On September 4, 2012, Ms. Brundidge called the Clinic to inquire about neutering her dog and to request a refill of heartworm preventative. Staff at the Clinic informed Ms. Brundidge that the records showed "Scooter Boo" had not been to the Clinic since 2011, and that "Scooter Boo" would need to get current on his vaccinations before he could be neutered.
6. On September 8, 2012, Ms. Brundidge presented "Scooter Boo" at the Clinic, along with the empty box of heartworm preventative that she had purchased from Respondent during the March 15, 2012 appointment. Ms. Brundidge reiterated to Clinic staff that "Scooter Boo" was current on vaccines, but allowed Respondent to vaccinate "Scooter Boo" again to keep the vaccination issue from preventing "Scooter Boo" from being neutered.
7. On September 22, 2012, Ms. Brundidge returned to the Clinic with the receipt and patient record she received at the March 15, 2012 appointment. Clinic staff photocopied the documents and added them to "Scooter Boo's" patient record at the Clinic.
8. Respondent investigated the cause of the missing record and determined that a former employee had been stealing the money paid by clients, and destroying patient records and receipts to hide the theft. "Scooter Boo's" patient record for the March 15, 2012 appointment was among those that the former employee had destroyed. Respondent refunded Ms. Brundidge's costs associated with the second, unnecessary round of vaccinations for "Scooter Boo."
9. On June 11, 2009, the Board entered Agreed Order No. 2009-31, disciplining Respondent for failing to properly supervise unlicensed employees working at the Clinic. The Board ordered that Respondent receive an informal reprimand and pay an administrative penalty of \$500.

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 8, Respondent violated Rule of Professional Conduct 573.52, Veterinarian Patient Record Keeping, by failing to maintain readily available copies of "Scooter Boo's" complete patient record at Respondent's place of business for a minimum of five years from the date of treatment.
3. Based on Findings of Fact 1 through 9 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: (a)

- (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 4, Respondent may be disciplined in the manner set out in Section 801.451, IMPOSITION OF ADMINISTRATIVE PENALTY, of the Veterinary Licensing Act, which authorizes an administrative penalty for violations of the Act and Board rules.

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

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Respondent receive a FORMAL REPRIMAND.

The Board ORDERS that Respondent pay, within 45 days of the date of this Order, an ADMINISTRATIVE PENALTY of FIVE HUNDRED DOLLARS (\$500.00). If Respondent fails to pay the administrative penalty within 45 days of the date of this Order, Respondent's

license may be suspended until the penalty is paid, and any payment by the Respondent to the Board to renew her license will be applied toward the payment of any administrative fee owed to the Board, and further enforcement action may be taken.

In addition, the Board ORDERS that Respondent 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 after one year of the date of this Order. If Respondent fails to provide documentation of completion within forty-five (45) days of one year of the date of this Order, Respondent's license may be suspended until the continuing education penalty is completed and documentation is received by the Board.

The Board further ORDERS that Respondent shall take and pass the Texas veterinary jurisprudence examination within 90 days from the date of this Agreed 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 Agreed 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 her understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law set forth herein, and agrees that she 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 her right to a formal hearing and any right to seek judicial review of this Agreed Order. Respondent acknowledges that she 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, EMBERLY HENSON, 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.

Emberly Henson, D.V.M.
EMBERLY HENSON, D.V.M.

2/20/13
DATE

STATE OF TEXAS §
COUNTY OF Dallas §

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

Given under the hand and seal of office this 20th day of February, 2013



Sarah E. Marez
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the _____, 20__.

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