

DOCKET NO. 2003-10

JAN 31 2003

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

AGREED ORDER

On this the 13th day of February, 2003 came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of James M. Hicks, D.V. M ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on January 7, 2003. The Respondent attended with counsel. 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 March 11, 2002, Mr. and Mrs. Harry Stollmack, Cypress, Texas, presented their cat "Jasper" to James M. Hicks, D.V.M., Fairfield Animal Hospital, Cypress, Texas, to be euthanized. Mr. Stollmack stated that the cat was becoming burdensome to his wife who has epilepsy and in addition the 10-year old cat had several health problems. The Stollmacks signed the appropriate euthanasia form.
2. Dr. Hicks examined "Jasper" and then called the Stollmacks to ask if they would give him permission to place the cat in another home. The Stollmacks declined. Dr. Hicks then asked his veterinary technician if she would like to adopt "Jasper." She agreed and took the cat home with her.
3. Several days later, the technician who had adopted the cat told Dr. Hicks that the cat had run away from her residence. On March 21, 2002, the Stollmacks heard a sound in their garage and upon investigation found "Jasper" at their door. The next morning, the Stollmacks met with Dr. Hicks at his clinic to ask for an explanation. Dr. Hicks explained what had happened and apologized for the situation.

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, 2, and 3, Dr. Hicks has violated Rule 573.7, NO ABUSE OF POSITION OR TRUST, of the Board's Rules of Professional Conduct, which states that a veterinarian shall not use his office of trust to deceive the public.
3. Based on Findings of Fact 1, 2 and 3, Dr. Hicks has violated Rule 573.26, HONESTY, INTEGRITY, AND FAIR DEALING, of the Board's Rules of Professional Conduct, which states that veterinarians shall conduct their practice with honesty, integrity and fair dealing to clients in time and services rendered.
4. Based on Conclusions of Law 1 through 3, Dr. Hicks 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 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 a civil 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. Hicks, 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.

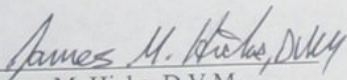
Respondent, by signing this Agreed Order, acknowledges his understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law herein set forth, and agrees that he will satisfactorily comply with the mandates of the Agreed Order in a timely manner or be subject to appropriate disciplinary 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 was 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, JAMES M. HICKS, 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.

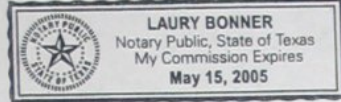

James M. Hicks, D.V.M.

1-29-03
Date

STATE OF TEXAS §
COUNTY OF Artes §

BEFORE ME, on this day, personally appeared James M. Hicks, 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 29th day of January, 2003.



Laury Bonner
Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the _____ day of _____, 2003.

J. Lynn Lawhon
J. Lynn Lawhon, D.V.M., President