



4. Following surgery, "Macho" was unable to urinate. On April 14, 2000 another veterinarian, Dr. Mark Lenox, performed an exploratory laparotomy to determine the cause of the problem. The surgeon found that the right testicle was still in place and that the dog's prostate gland had been removed instead. A large circumferential ligature was found around the neck of the bladder which had caused the bladder to lose its blood supply. Dr. Lenox determined that repair of the bladder was not practical. The dog was euthanatized.

5. The acts and/or failures to act set out in Findings of Fact 3 and 4, and more specifically, the failure to properly conduct a surgical procedure on the dog that led to removal of the wrong organ and the subsequent death of the dog, do not constitute the exercise of 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 El Paso, 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 3, 4 and 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 are 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 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 imposition of a civil penalty by the Board under the 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:  
(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 G. Howard, D.V.M., be REPRIMANDED.

The Board further ORDERS that the Respondent pay a civil penalty of \$250.00, payable within 45 days of this Order.

The Board further ADOPTS the following terms and conditions:

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, 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 is entitled to be represented by an attorney of Respondent's choice at his expense. Respondent has voluntarily represented himself.

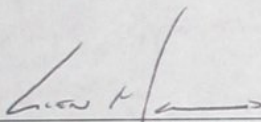
RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. NOTHING IN THIS ORDER SHALL BE DEEMED A WAIVER OF RESPONDENT'S RIGHTS UNDER STATUTE OR UNDER THE UNITED STATES OR TEXAS CONSTITUTIONS TO APPEAL AN ORDER OR ACTION OF THE BOARD SUBSEQUENT TO THIS AGREED

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ORDER EXCEPT AS RESPONDENT MAY HAVE OTHERWISE AGREED TO HEREIN.  
RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

The date of this Agreed Order shall be the date it is adopted by the Texas Board of Veterinary Medical Examiners.

I, **JAMES G. HOWARD**, D.V.M., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT 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.

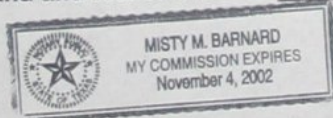
  
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James G. Howard, D.V.M.  
Respondent

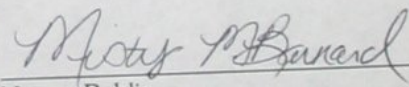
29 JAN, 2001  
DATE

STATE OF TEXAS §  
COUNTY OF Collin §

BEFORE ME, on this day, personally appeared James G. Howard, D.V.M., known to me to be the person whose name is subscribed to the foregoing Agreed Order, and acknowledged to me that he executed the same for the purposes stated therein.

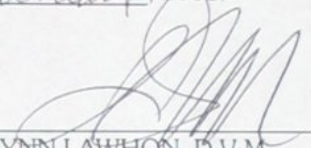
Given under the hand and seal of office this 29 day of JAN, 2001



  
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Notary Public

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SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL  
EXAMINERS on this the 25th day of February, 2001.

  
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J. LYNN LAWHON, D.V.M.  
President