

2. The heifer was presented next for dehorning. Mr. Morgan emphasized to Dr. Imke the value of the heifer and was concerned that whatever happened to the bull might happen to the heifer. Dr. Imke used a new bottle of Xylazine and said he would send the bottle used on the bull back to the manufacturer. Within two minutes of being injected with Xylazine, the heifer collapsed in the chute and was unable to stand. Dr. Imke admitted that there were reversal medications for such a situation, but that he did not have them with him. Dr. Imke proceeded with the dehorning. The heifer was having difficulty responding. Dr. Imke observed the heifer following the dehorning, for another forty-five minutes and then he left the premises at approximately 5:00 p.m. Dr. Imke did not contact Mr. Morgan again that evening.

3. After Dr. Imke's departure, Mr. Morgan was able to "prop up" the heifer with some hay bales. At some point the heifer was able to stand, but only briefly. The next morning the heifer was no better, and Mr. Morgan telephoned Dr. Imke's clinic. Since it was Dr. Imke's day off, and he had broken his hand that morning, Ronald Naylor, DVM, took the call. Dr. Naylor offered to come to examine the heifer and when Mr. Morgan refused, he advised Mr. Morgan to come to the clinic and pick up some Banamine for the heifer. Mr. Morgan did so and injected the heifer with the Banamine. Later in the day, Mr. Morgan gave the heifer another injection on the advice of Dr. Naylor. However, the heifer died later that evening. No necropsy was done.

4. Dr. Imke's failure to contact Mr. Morgan on the evening of February 1, 2006 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 Granbury, 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 2-4, Respondent has violated **Rule of Professional Conduct §573.22, PROFESSIONAL STANDARD OF HUMANE TREATMENT**, 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 2-4 and Conclusions of Law 1-2, Respondent has violated §801.402(6) of the Act, 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.

4. Based on Conclusions of Law 1-3, Respondent is subject to disciplinary action under §801.401 of the Act:

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 §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, the Board ORDERS that Respondent 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. Failure by Respondent to comply 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 set forth herein.

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 THIS IS A FINAL ORDER.

The effective date of this Agreed Order shall be the date it is adopted by the Board and if not adopted at the Board's next meeting, Dr. Imke's offer to enter into this Agreed Order is immediately revoked without further action by Dr. Imke.

I, DAVID IMKE, 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.

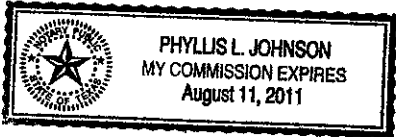
David Imke D.V.M.
David Imke, D.V.M.

4/13/09
Date

STATE OF TEXAS §
COUNTY OF TRAVIS §

BEFORE ME, on this day, personally appeared DAVID IMKE, 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 13 day of April, 2009.



Phyllis L. Johnson
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 11th day of June, 2009.
Bud Alldredge, Jr.
Bud Alldredge, Jr., D.V.M., President