

DOCKET NO. 2003-25

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TEXAS STATE BOARD OF
VETERINARY MEDICAL EXAMINERS

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

AGREED ORDER

On this the 12th day of June, 2003 came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of Mitchel Jager, D.V. M ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on May 13, 2003. The Respondent attended without 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 July 5, 2002, Mrs. Cynthia Nawara's pregnant Cocker Spaniel "Sable" went into labor. By 9:00 a.m. on July 6, no pups had been born, so Mrs. Nawara presented the dog to Mitchel Jager, D.V.M., Waco, Texas. Dr. Jager delivered one dead pup by forceps. He then injected the dog with 1 cc of oxytocin to induce hard labor. He then sent the dog home. At around 12:30 p.m., "Sable" had another pup, but by 5:30 p.m., no additional pups had been born. Mrs. Nawara took the dog back to Dr. Jager who delivered a live pup by forceps. He again injected oxytocin to induce labor and sent the dog home. By this time Mrs. Nawara was aware of a strong smell emanating from the dog.

2. Around 8:00 a.m. on Sunday, July 7, Mrs. Nawara's husband took "Sable" back to Dr. Jager because no additional pups had been born. Dr. Jager delivered another dead pup by forceps. Mr. Nawara noticed a strong odor when the pup was delivered. Dr. Jager said that he felt no additional pups in the dog's abdomen and sent the dog home. When the dog arrived at home, Mrs. Nawara palpated additional pups in the dog's abdomen. The Nawaras then took the dog to the Animal Emergency Clinic of Waco at around 1:00 p.m., but "Sable" died before she could be examined by LuAnn Ervin, D.V.M., who was on duty at the time. Dr. Ervin was able to palpate

a pup in the dog's uterus after she died.

3. During his examination of "Sable," Dr. Jager did not hospitalize the dog, took no radiographs, administered no fluids or antibiotics, and did not perform a c-section on the dog.
4. Patient records for "Sable" submitted to Mrs. Nawara do not include weight and temperature and names, dosages, concentration and routes of administration of drugs prescribed, and other details necessary to substantiate the examination, diagnosis, and treatment provided.
5. The acts and/or failures to act by Dr. Jager specified in Findings of Fact 1 through 3, and more particularly, his failure to properly and timely diagnose and treat the dog "Sable," which led to the dog's eventual death, do 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 community in Waco, 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 1 through 3 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 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 4, Respondent has violated Rule 573.52, PATIENT RECORD KEEPING, of the Board's Rules of Professional Conduct.
4. Based on Findings of Fact 1 through 5 and Conclusions of Law 1 through 3, 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.
5. 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 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 Mitchel Jager, D.V.M., be OFFICIALLY 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 herein, 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 waived representation 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, MITCHELL JAGER, 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.

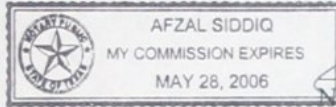
Mitchel Jager D.V.M.
Mitchel Jager, D.V.M.

5-29-03
Date

STATE OF TEXAS §
COUNTY OF McLennan §

BEFORE ME, on this day, personally appeared MITCHELL JAGER, 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 May, 2003.



Afzal Siddiq
Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 12th day of June, 2003.

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