

DOCKET NO. 2009-65

IN THE MATTER OF § TEXAS BOARD OF  
THE LICENSE OF § VETERINARY  
JOE M. JAKSIK, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this the 8 day of DECEMBER, 20~~08~~<sup>09</sup>, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Joe M. Jaksik, D.V.M. ("Respondent"). Pursuant to §801.408 of the Veterinary Licensing Act and Board Rule §575.27, an informal conference was held on June 12, 2009. Respondent appeared at the conference. The Board was represented at the conference by the Board's Enforcement Committee.

Respondent 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 June 22, 2008, Sherri Lubianski, 13440 FM 1346, Saint Hedwig, Texas, received a male kitten as gift from a family friend, and named him "Tiger." "Tiger" was born on May 11, 2008. On June 28, 2008, "Tiger" was attacked by a skunk and bitten on the head. Mr. Lubianski killed the skunk and disposed of the remains. Local animal control declined to pick up the skunk and test it for rabies.
2. Ms. Lubianski took "Tiger" to Respondent, Housecall Veterinarian, 885 Zigmont Rd., Adkins, Texas, for evaluation. Respondent administered antibiotics to "Tiger" and sold Ms. Lubianski shampoo to remove the skunk spray smell. Respondent advised Ms. Lubianski to quarantine "Tiger" in his crate for ten days for observation. "Tiger" appeared normal and was released from the crate at the expiration of the ten day period. However, on the thirteenth day following the attack (July 11<sup>th</sup>), "Tiger" began to act strangely and refused to take his medication. Over the next three days, "Tiger" began to exhibit classic rabies symptoms and was returned to Respondent's clinic to be euthanized and tested for rabies.
3. On July 14<sup>th</sup>, "Tiger" was euthanized by Respondent and the remains were recovered for testing by San Antonio Animal Control. Ms. Lubianski determined that two of her four children had come into contact with "Tiger" after the skunk attack and notified Respondent of same on July 15<sup>th</sup>. On July 16<sup>th</sup>, Ms. Lubianski was notified by the City of San Antonio and Texas Department of State Health Services that "Tiger" tested positive for the rabies virus. Ms. Lubianski and her four children were required to receive the post-exposure rabies treatment from

July 16, 2008 – August 13, 2008.

4. The quarantine protocol for an unvaccinated animal required by the Texas Department of State Health Services is 90 days, pursuant to Rule 169.30(a) of the Texas Administrative Code:

“Not currently vaccinated animals which have been bitten by, directly exposed by physical contact with, or directly exposed to the fresh tissues of a rabid animal shall be: (1) humanely killed; or (2) immediately vaccinated against rabies, placed in confinement for 90 days, and given booster vaccinations during the third and eighth weeks of confinement. *TAC Title 25 – Health Services, part 1 – Department of State Health Services, Chapter 169 – Zoonosis Control, Subchapter A – Rabies Control and Eradication, Rule §169.30*

5. Respondent’s failure to correctly advise Ms. Lubianski on the rabies quarantine protocol for an unvaccinated animal 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 Adkins, Texas, or similar communities, and contributed to the Lubianski family’s exposure to the rabies virus and subsequent treatment for rabies.

6. Based on Paragraphs 1-6, Respondent has violated Rules of Professional Conduct § 573.22 PROFESSIONAL STANDARD OF HUMANE TREATMENT.

#### **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 1-5, 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 1-6 and Conclusions of Law 1-2, Respondent has violated §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.

4. Based on Conclusions of Law 1-3, Respondent is subject to disciplinary action under §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 §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 Findings of Fact and Conclusions of Law, the Board ORDERS that Respondent be FORMALLY 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. The effective date of this Agreed Order shall be the date it is adopted 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 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 THAT THIS IS A FINAL ORDER.

I, JOE M. JAKSIK, 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.

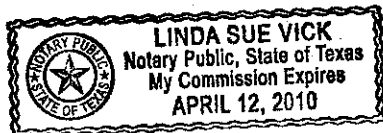
Joe M. Jaksik DVM  
Joe M. Jaksik, D.V.M.

11-19-09  
Date

STATE OF TEXAS §  
COUNTY OF BEVIL §

BEFORE ME, on this day, personally appeared JOE M. JAKSIK, 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 19<sup>th</sup> day of NOVEMBER, 2009.



Linda Sue Vick  
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on 8 DECEMBER, 2010.

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

**RECEIVED**  
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TEXAS STATE BOARD OF  
VETERINARY MEDICAL EXAMINERS