

AUG 19 2013

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

**AGREED ORDER**

On this the 22 day of October 2013, came to be considered by the Texas Board of Veterinary Medical Examiners (Board) the matter of the license of DOUGLAS JOHNSON, D.V.M. (Respondent). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on July 17, 2013. Respondent did ~~not~~ attend the informal conference, and was not represented by counsel. The Board was represented at the conference by the Board's Enforcement Committee.

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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. Respondent, Douglas Johnson, D.V.M. of Angleton, Texas, holds Texas veterinary license 2923.
2. The Board has jurisdiction over the subject matter and Respondent. Respondent received notice, which may be required by law and by the rules of the Board. All jurisdictional requirements have been satisfied under Tex. Occ. Code Ann. Title 4 ("Act"). By entering into this Agreed Order, Respondent waives any defect in the notice and any further right to notice and hearing under the Act; Tex. Gov't Code Ann. §§ 2001.051-.054; and the Rules of the Texas Board of Veterinary Medical Examiners ("Board Rules") (22 Tex. Admin. Code, Chapter 575).

3. On August 10, 2012, Cheryl Fischer presented her one-year old Labrador mix dog named Skeeter to Respondent at the Brazos Woods Veterinary Clinic ("Clinic") in Lake Jackson, Texas for spay surgery.
4. Respondent performed the spay surgery. On August 11, 2012, Ms. Fischer picked Skeeter up from the Clinic.
5. On August 15, 2012, Ms. Fischer noticed a reddish fluid dripping from the incision.
6. On August 16, 2012, Ms. Fischer called the Clinic in the morning, and was told by a member of Clinic staff to bring Skeeter to the Clinic at 3:30 pm. Clinic staff informed Ms. Fischer that Respondent had sold the practice and was no longer working there, and that as of August 13, 2012, the new veterinarian at the Clinic was Brooke Ashley, D.V.M.
7. When Ms. Fischer presented Skeeter at the Clinic, Dr. Ashley examined Skeeter's incision and saw that it was bulging. Dr. Ashley initially suspected that it was a seroma, and removed two stainless steel skin sutures in an effort to facilitate drainage. With the sutures gone, Dr. Ashley was able to see that there was no subcutaneous closure or lineal closure in the incision, and that the incision was draining peritoneal fluid. Dr. Ashley told Ms. Fischer that Skeeter needed to have the incision surgically repaired, and Ms. Fischer consented to having the repair performed that day.
8. At the informal conference, Respondent explained to the Board that he uses only two layers of sutures to close surgical incisions. Under the circumstances described above, the standard of care for a veterinarian in Respondent's community or similar communities is to use three layers of sutures to close the surgical incision.
9. When he discontinued his practice, Respondent transferred ownership of his patient records to Dr. Ashley. In response to a request from the Board as part of the investigation of this case, Dr. Ashley produced Respondent's records for his treatment of Skeeter at the Clinic. Respondent's records lack required information, including but not limited to: weight required for treatment; temperature required for diagnosis or treatment; names, dosages, concentration and routes of administration of each drug prescribed, dispensed and/or administered; and any other details necessary to substantiate or document the examination, diagnosis and treatment provided, and/or surgical procedure performed.
10. On October 30, 2012, the Board entered Agreed Order No. 2013-23, disciplining Respondent for failing to meet patient record keeping requirements under the Board's Rules of Professional Conduct.

### **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 8, Respondent has violated Rule 573.22, PROFESSIONAL STANDARD OF CARE, by failing to appropriately suture the surgical incision following spay surgery with three layers of sutures.

3. Based on Findings of Fact 1 through 9, Respondent has violated Rule 573.52, PATIENT RECORDKEEPING, of the Board's Rules of Professional Conduct, by failing to record required information in his patient record for Skeeter, including but not limited to: weight required for treatment; temperature required for diagnosis or treatment; names, dosages, concentration and routes of administration of each drug prescribed, dispensed and/or administered; and any other details necessary to substantiate or document the examination, diagnosis and treatment provided, and/or surgical procedure performed.

4. Based on Findings of Fact 1 through 10 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 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: (a)

- (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.

.... (d) In addition to other disciplinary actions authorized by this subchapter, the

board may require a license holder who violates this chapter to participate in a continuing education program.

6. Based on Conclusions of Law 1 through 5, Respondent may be disciplined in the manner set out in Section 801.451, IMPOSITION OF ADMINISTRATIVE PENALTY, of the Veterinary Licensing Act, which authorizes an administrative penalty for violations of the Act and Board rules.

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 receive an FORMAL REPRIMAND.

The Board ORDERS that Respondent pay, within 45 days of the date of this Order, an ADMINISTRATIVE PENALTY of ONE THOUSAND DOLLARS (\$1000.00). If Respondent fails to pay the administrative penalty within 45 days of the date of this Order, Respondent's license may be suspended until the penalty is paid, and any payment by the Respondent to the Board to renew his license will be applied toward the payment of any administrative fee owed to the Board, and further enforcement action may be taken.

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 Agreed 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 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 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. 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, DOUGLAS JOHNSON, 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.

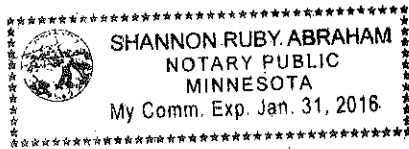
Douglas Johnson DVM  
DOUGLAS JOHNSON, D.V.M.

17 AUG 13  
DATE

STATE OF Minnesota §  
~~TEXAS~~ §  
COUNTY OF CASS §

BEFORE ME, on this day, personally appeared Douglas Johnson, 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 17<sup>th</sup> day of August, 2013.



Shannon Ruby Abraham  
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 22nd of October, 2013.

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