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DOCKET NO. 2005-25

IN THE MATTER OF § TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS
THE LICENSE OF §
JAMES L. COX, D.V.M. § VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this the 9th day of June, 2005, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of JAMES L. COX, D.V. M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on February 18, 2005. The Respondent appeared 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. At approximately 11:15 p.m. on May 4, 2004, Raymond Dale, Manvel, Texas, noticed that his dog "Rosie" was in distress. Her abdomen was noticeably distended and showed clear signs of bloat, according to Mr. Dale. He rushed the dog to the Animal Emergency Clinic, Sugar Land, Texas. After some delay, the dog was examined by James Cox, D.V.M. Dr. Cox told Mr. Dale that the dog did not have bloat but had a large tumor that probably involved her spleen. He said that "Rosie" was not in immediate danger and suggested that Mr. Dale take the dog to the family veterinarian the next day for x-rays and possible surgery. Dr. Cox noted that the dog was comfortable and relaxed. Mr. Dale suggested an immediate x-ray, but Dr. Cox declined. Dr. Cox did not suggest keeping the dog overnight for observation and blood work was not done.
2. Mr. Dale reluctantly took "Rosie" home, feeling that bloat was the real problem. The dog's condition worsened and she died early the next morning. Mr. Dale asked Cara Campbell, D.V.M., Pearland, Texas, to examine the deceased dog to determine the probable cause of death. Dr. Campbell observed that the dog's stomach was greatly distended and a necropsy was performed. It revealed that the small intestine was hemorrhagic, the stomach was distended and hemorrhagic with some necrotic areas and was torsed. The spleen was enlarged but no masses

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were noted. In Dr. Campbell's opinion, the dog died from gastric torsion, dilation and related shock.

3. Based on paragraphs Findings of Fact 1 and 2, Dr. Cox's failure to adequately diagnose and treat the patient 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 Sugar Land, Texas, or similar communities.

4. During its investigation of the complaint, the Board repeatedly requested of Dr. Cox, a copy of all patient records associated with his treatment of "Rosie." He did not provide a copy of the records until the day of the informal conference.

5. On June 25, 2004, the Board requested a response to the complaint by Dr. Cox. Two more requests for response were sent to Dr. Cox, on July 20th and September 23rd. The latter certified letter was not picked up by Dr. Cox. Two additional telephone calls to Dr. Cox were not returned. Contact was finally made on Saturday, October 16th, and Dr. Cox promised to send a response by facsimile on October 19th. He did not respond as promised. Another call was made to Dr. Cox on October 21st. Dr. Cox faxed a statement to the Board saying that the file had been misfiled and a hard copy and record was to follow. The facsimile contained a short response to the complaint. To date, the Board has not received a hard copy or record. On November 3rd, the certified letter to Dr. Cox was returned unclaimed.

6. Dr. Cox has not informed the Board of a home address or a telephone number.

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 Finding of Fact 1 and 2, 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 Findings of Fact 4 and 5, Dr. Cox has violated Rule 573.74 DUTY TO COOPERATE WITH BOARD, of the Board's Rules of Professional Conduct, which requires a veterinarian to cooperate fully with a Board investigation and timely respond to requests for information.

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4. Based on Finding of Fact 6, Dr. Cox has violated section 801.156, Occupations Code, which requires the Board to maintain a record of each veterinarian's residence address. Dr. Cox has also violated Rule 573.75 NOTIFICATION OF LICENSEE ADDRESSES, of the Board's Rules of Professional Conduct, which requires each veterinarian to notify the Board of his or her residence address.

5. Based on Findings of Fact 1 through 6 and Conclusions of Law 1 through 4, 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.

6. Based on Conclusions of Law 1 through 5, 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 JAMES L. COX, D.V.M., be FORMALLY REPRIMANDED.

The Board further ORDERS that Respondent pay a CIVIL PENALTY of ONE THOUSAND TWO HUNDRED AND FIFTY DOLLARS (1,250.00), payable within 45 days of the date of this Order. If Respondent fails to pay the civil penalty within 45 days of the date of this Order, Respondent's license shall be SUSPENDED until the civil penalty is paid.

The Board further ORDERS that, within 12 months of the date of this Order, Respondent complete and provide proof of taking four (4) hours of continuing education in an approved course of emergency medicine.

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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.

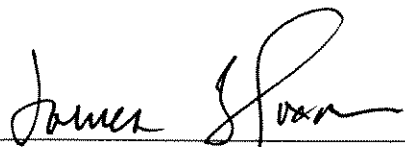
Respondent, by signing this Agreed Order, acknowledges his understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law herein set forth herein, and agrees that he will satisfactorily comply with the mandates of the Agreed Order in a timely manner or be subject to appropriate 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 is not 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.

The effective date of this Agreed Order shall be the date it is adopted by the Board.

I, JAMES L. COX, 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.


James L. Cox, D.V.M.

4/15/05
Date

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STATE OF TEXAS §
COUNTY OF _____ §

BEFORE ME, on this day, personally appeared JAMES L. COX, 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 _____ day of _____, 2005.

Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 9th day of June, 2005.



Gary C. Brantley, D.V.M., President