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DOCKET NO. 2005-18

IN THE MATTER OF § TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS  
THE LICENSE OF §  
DERRICK A. NELSON, D.V.M. § VETERINARY MEDICAL EXAMINERS

### AGREED ORDER

On this the 17<sup>th</sup> day of February, 2005, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of DERRICK A. NELSON, D.V. M. ("Respondent") Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on December 9, 2004. The Respondent appeared with 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 7, 2004, Cyndi Readiger presented her mixed Pekingese female named "Jilly" to the Animal Clinic of LaPorte, Texas, because the dog had been vomiting, had not been eating, and seemed to indicate pain when touched on the jaw. Derrick Nelson, D.V.M., examined the dog and found severe dental disease. (NOTE: Ms. Readiger's original complaint was against William Jones, D.V.M., but Dr. Nelson actually handled the case.) Dr. Nelson suggested immediate surgery to remove the tooth and any other bad teeth, clean the remaining teeth, and coat the teeth with a substance that would help prevent decay. Dr. Nelson informed Ms. Readiger that there is some risk with any surgery, and Ms. Readiger authorized the teeth procedures.
2. Following pre-surgical blood work, Dr. Nelson removed 13 teeth due to "Jilly's" extensive dental disease. He noted that the dog's jaw was somewhat loose. He reported to Ms. Readiger that the dog was recovering well from the surgery. Later in the day, Dr. Nelson told Ms. Readiger that her dog was doing fine and could be picked up that evening. Upon discharge, Dr. Nelson prescribed an antibiotic and painkiller (butorphanol mixture). There was some confusion about the prescribed dosage of painkiller, and Ms. Readiger understood that she should give "Jilly" 2 ml every 12 hours, as stated on the bottle. She checked with her sister-in-law who was

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an employee of the clinic, who said that it would be okay to give the dog 1 ml every six hours, but not more than 2 ml in 12 hours.

3. After arriving home, "Jilly" refused to eat and was vomiting. On July 8<sup>th</sup>, she seemed weak and lethargic, but did not seem to be in pain. She ate some food, but she also experienced vomiting and diarrhea. Ms. Readiger gave the painkiller as directed but skipped a dose at 1:00 a.m. On July 9<sup>th</sup>, the dog was unresponsive and still had diarrhea and was vomiting. Ms. Readiger called the clinic and was told by a technician that the painkiller dose of 1 ml every 6 hours was too much. Ms. Readiger then took "Jilly" to the clinic for examination by Dr. Nelson. He told Ms. Readiger that the dosage amount on the painkiller bottle (2 ml by mouth twice daily) was a mis-communication. Dr. Nelson believed that the patient was 3-4% dehydrated and administered subcutaneous (SQ) fluids (50 ml LR solution). The dog was force fed and Dr. Nelson saw her walk around during the afternoon. The dog was discharged to Ms. Readiger's care.

4. When "Jilly" arrived home, Ms. Readiger noticed that the dog had vomited again and still had diarrhea. "Jilly" was shaking and non-responsive. Ms. Readiger's daughter called Dr. Nelson and reported on the dog's condition. Ms. Readiger then decided to take "Jilly" to the emergency clinic, but before she could do so, the dog died.

5. On presentation on July 9<sup>th</sup>, the patient was clinically dehydrated, at least 6-8 percent. Dr. Nelson's administration of 50 ml of fluids SQ to the patient over a six-hour period was inadequate to address the dehydration. The dog should have been placed on IV fluids and monitored closely based on the following, in addition to the dehydration: (a) the dog's age (14) demanded a greater degree of therapy; (b) the patient had a history of recent vomiting, diarrhea, and not eating, and an inability to metabolize and excrete pain medication; and (c) the patient had recently undergone major dental surgery. Dr. Nelson did not determine during the day if the fluid therapy was effective, except to observe that the dog was walking around.

6. Based on Finding of Fact 5, Dr. Nelson's actions or inaction 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 La Porte, 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 3, 5, and 6, Respondent has violated Rule 573.22,

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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 3, 5, and 6, and Conclusions of Law 1 and 2, 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.

4. 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 Derrick Nelson, D.V.M., 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. 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

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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 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, **DERRICK NELSON, 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.



Derrick Nelson, D.V.M.

11/14/05

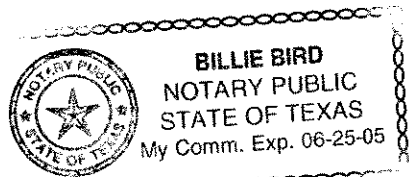
Date

STATE OF TEXAS - §  
COUNTY OF HARRIS §

BEFORE ME, on this day, personally appeared DERRICK NELSON, 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.

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Given under the hand and seal of office this 14<sup>th</sup> day of JAN, 2005.



  
Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 17th day of February, 2005.

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