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DOCKET NO. 2005-48

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

AGREED ORDER

On this the 13th day of October, 2005 came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of Jennifer M. Russell, D.V. M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on June 10, 2005. 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 her understanding of the alleged violations and the adequacy and sufficiency of the notice provided to her.

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 February 4, 2005, Theodore and Annie Henderson, Flower Mound, Texas, presented their dog "Czech" to Banfield, The Pet Hospital, Irving, Texas, for a dental procedure. They were asked by a Banfield service coordinator if they wanted "Czech" neutered. They declined, saying that the dog had been previously neutered. Records from Aladdin Animal Hospital, Flower Mound, Texas, show that the dog was neutered at Aladdin on September 3, 2004.
2. At approximately 1:30 p.m., the Banfield service coordinator called Ms. Henderson and told her that the veterinarian, Jennifer M. Russell, D.V.M., had mistakenly made an incision on the dog before being told that the dog had already been neutered. The dental procedure had been performed. Ms. Henderson told the coordinator that she wanted to pick up "Czech" and take him to another veterinary hospital. The dog was picked up later that day.
3. During preparation for surgery on February 4th, Dr. Russell discovered that "Czech" did not have any scrotal testicles. She apparently did not notice the incision scar left by the previous neuter at Aladdin Animal Hospital. She palpated what she thought were inguinal testicles

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bilaterally. She then proceeded to make an incision over the left inguinal region and found no testicle in the left inguinal region. Dr. Russell was then informed by the service coordinator that the dog had been previously neutered.

4. "Czech" was presented to the Aladdin Animal Hospital on Saturday morning, February 5, 2005, at which time he was examined by Janice W. Price, D.V.M. Dr. Price concluded that there were no discernible problems with the dog's health. She observed that the abdomen and groin were shaved, with a two-inch incision in the right paramedial space lateral to the penile sheath. No serious medical issues were observed.

5. Banfield patient records for "Czech" show that the dog was a patient at Banfield on August 19, 2004, September 15, 2004, and November 6, 2004. The patient notes for August 19th indicate that a neuter was recommended "in the next month." However, the Banfield patient records for September 15th contains the notation, "Client Education: vaccine reactions, wellness, neutering if not breeding." The Banfield patient records for November 6th say, "Follow-up therapy: dental, neuter, vaccines, comp, fecal." Based on these notes, according to Dr. Russell, an appointment was made for a neuter and teeth cleaning on February 4, 2005. She performed the unauthorized procedure on that date.

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 5, Respondent has violated Section 801.402 (12) of the Veterinary Licensing Act, Texas Occupations Code, GENERAL GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION, which prohibits the performing of unauthorized treatment.

3. Based on Conclusions of Law 1 and 2, 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.

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NOW, THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:

The Board ORDERS that JENNIFER M. RUSSELL, 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 provisions of the Licensing Act or the Board Rules, may result in further disciplinary action.

Respondent, by signing this Agreed Order, acknowledges her understanding of the Agreed Order, the notice, Findings of Fact and Conclusions of Law herein set forth, and agrees that she will satisfactorily comply with the mandates of the Agreed Order in a timely manner or be subject to appropriate disciplinary action by the Board.

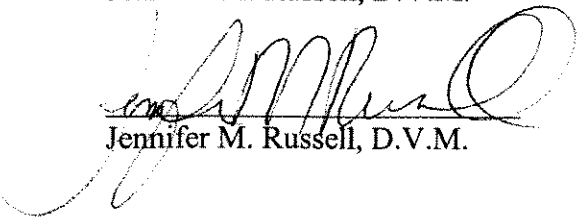
Respondent, by signing this Agreed Order, waives her right to a formal hearing and any right to seek judicial review of this Agreed Order. Respondent acknowledges that she had the right to be represented by legal counsel in this matter.

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.

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

I, JENNIFER M. RUSSELL, 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.

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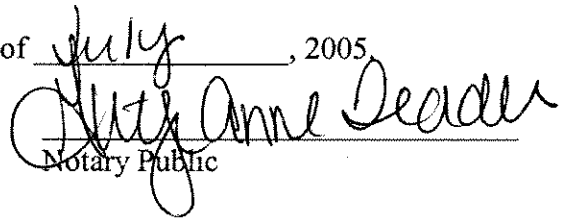

Date

STATE OF TEXAS §
COUNTY OF Dallas §

BEFORE ME, on this day, personally appeared Jennifer M. Russell, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that she executed the same for the purposes stated therein.

Given under the hand and seal of office this 26 day of July, 2005.




Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 13th day of October, 2005.


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