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DOCKET NO. 2005-31

IN THE MATTER OF § TEXAS STATE BOARD OF
THE LICENSE OF § VETERINARY MEDICAL EXAMINERS
FERDINAND TAMAS, 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 FERDINAND TAMAS, D.V. M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on March 3, 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. On December 4, 2003, Richard Wyatt, Houston, Texas, presented his dog "Shadow" to Joseph Mandola, D.V.M., Richmond Animal Hospital, Richmond, Texas, for a second opinion on what had been diagnosed by a previous veterinarian as an anterior cruciate ligament (ACL) injury. Previous treatment records and radiographs were provided to Dr. Mandola. Mr. Wyatt left "Shadow" with Dr. Mandola so that additional radiographs could be taken. Dr. Mandola reported that the radiographs appeared to show a rupture of the right rear ACL, but he could only be certain of the diagnosis with surgery. Mr. Wyatt was concerned with the cost of surgery and elected to defer the surgery until after the Christmas holidays.
2. In the latter part of December, "Shadow" began to refuse food and experience constipation. Mr. Wyatt contacted the Richmond clinic and spoke with David Thurmond, D.V.M., who advised him to start the dog on a regimen of mineral oil and grain-based foods. (Note: Dr. Thurmond disputes this.) The dog began to have trouble walking. By December 22nd, the mineral oil began to work and "Shadow" started eating again.

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3. The constipation problem appeared periodically through January, 2004. The dog had difficulty getting up and down and walking. On January 29th, Mr. Wyatt again presented "Shadow" to Dr. Mandola. Dr. Mandola manipulated the dog's right leg and knee with little response from the dog. He prescribed prednisone for the pain. (Note: Dr. Mandola's records do not show a visit on January 29th, only the prescription for prednisone.)
4. Constipation problems continued to recur and mineral oil and fiber seemed to help. At the end of March, 2004, the constipation was not being helped by the mineral oil and fiber. The dog developed other strange behavior, such as flip-flopping, yelping, and groaning in her sleep. Dr. Thurmond suggested by telephone that Mr. Wyatt bring "Shadow" in for examination to determine the problem. Upon presentation to the clinic on March 30th, Dr. Mandola suggested keeping the dog overnight for observation. Patient records for March 31st indicate that Dr. Thurmond performed a fecal float and smear. He found fragments of bone in the dog's stool. New radiographs confirmed the presence of small bone fragments in the dog's gut, and the presence of enlarged sublumbar lymph nodes. Large amounts of stool were seen in the colon. Mineral oil treatment continued and anti-inflammatories and antibiotics were administered.
5. On April 1st, Dr. Mandola reported that most of the bone fragments had passed and "Shadow" was now urinating and defecating and eating and drinking again. Dr. Mandola took another radiograph which showed the sublumbar mass. Ferdinand Tamas, D.V.M., as associate at the clinic, performed a rectal examination on the dog and noted in the patient record on April 1st: "multiple soft tissue swelling in colon, possible colon cancer." Dr. Tamas did not consult with Dr. Mandola or Dr. Thurmond concerning this notation. None of the veterinarians - Dr. Mandola, Dr. Thurmond, or Dr. Tamas - discussed the results of the rectal examination and/or radiographs with the client.
6. By early May, "Shadow" was again having the old symptoms of constipation and strange behavior. On May 13th, Mr. Wyatt left the dog at the clinic for treatment of an ear infection. Mr. Wyatt did not present any new complaints about the dog's constipation or other previously noted problems. The dog's ears were treated and Dr. Mandola dispensed ear drops and an antibiotic to be administered at home.
7. On June 22nd, Mr. Wyatt consulted with Dr. Mandola concerning the dog's ACL problem. Dr. Mandola did not discuss with Mr. Wyatt the rectal examination results and radiographic indications of April 1st and March 31st. Dr. Mandola performed the ACL surgery on June 24th and Mr. Wyatt picked the dog up in the afternoon. The price charged Mr. Wyatt for surgery was not the price quoted previously by Dr. Mandola. Mr. Wyatt received no post-surgery instructions or medications, or follow-up appointment schedule. Mr. Wyatt called Dr. Mandola to express his dissatisfaction with these events. On June 26th, Mr. Wyatt returned to the clinic to have the dog's surgical dressing replaced. Some improvement in the dog's movements was noted.

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8. By June 28th, the dog was again having difficulty with constipation, seemed to be in pain, and was having difficulty walking, standing, and sitting. In addition, the dog's abdomen was swollen and her mammary glands seemed to be hanging lower than usual and were very firm. Mr. Wyatt returned to the clinic with "Shadow." Dr. Mandola took a vaginal swab and told Mr. Wyatt that he, Dr. Mandola, needed to do "something different" now. Dr. Mandola administered injections of anti-inflammatories and antibiotics.
9. On July 4th and 5th, "Shadow" appeared to be in pain. Her abdomen, hips, and legs were swollen, and she could barely walk or sit. She could not urinate or defecate. A large bulge was noted on her left side. She had a rectal temperature of 104 degrees F.
10. On July 6th, Mr. Wyatt took the dog to Dr. Mandola for suture removal. Dr. Mandola said that the bulging on the dog's side was "probably a fatty tumor that could be dealt with later." He also mentioned that the dog could be showing some signs of heart failure that was contributing to the swelling. He told Mr. Wyatt to continue giving the dog anti-inflammatories and use the mineral oil if necessary.
11. On July 17th and 18th, "Shadow's" old symptoms returned. On July 19th, the dog produced a steady stream of blood from her rectum and collapsed. Unable to locate Dr. Mandola, Mr. Wyatt took the dog to the Emergency Animal Clinic in Sugarland where she was seen by Diane Platts, D.V.M. Dr. Platts found that the dog's temperature was 105 degrees F; she was 5 % dehydrated; her abdomen was distended and guarded to the touch; there was a firm mass on the ventral caudal abdomen (mammary mass); and her heart rate was increased. An abdominal radiogram showed a soft tissue mass dorsally displacing and compressing the colon and ventrally displacing and compressing the urinary bladder. Dr. Platts opined that the diarrhea and urination problems were due to this mass. Treatment options were discussed with Mr. Wyatt, and Dr. Platts suggested that Mr. Wyatt arrange for an ultrasound and biopsy of the mass by a board certified oncologist.
12. On July 20, 2004, Mr. Wyatt picked up the patient records at Dr. Mandola's clinic and presented the dog to Steven Susaneck, D.V.M., a board certified oncologist. Dr. Susaneck noted the large mass in the caudal abdomen as well as the enlarged mammary glands. Previous radiographs taken at Dr. Mandola's office on March 31st and April 1, 2004 showed enlargement of the sublumbar lymph nodes. Fine needle aspirations of the mammary glands and lymph nodes revealed carcinoma cells. Dr. Susaneck's diagnosis was metastatic carcinoma. Because of the poor prognosis, "Shadow" was euthanized.
13. The following actions and/or inactions of Dr. Tamas do 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 Richmond, Texas, or similar communities: Dr. Tamas performed a rectal examination on April 1, 2004 and made the following entry in the patient records: "multiple soft tissue swelling in colon,

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possible colon cancer." Radiographs taken on March 31, 2004 and April 1, 2004, showed enlargement of sublumbar lymph glands. These findings were not discussed with the client and no follow-up treatment or referral to a specialist was recommended.

14. For the patient visit on May 13, 2004, Dr. Tamas did not note in the patient records the identity and method of administration of the antibiotics and anti-inflammatories given the patient.

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 13, 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 Finding of Fact 14, Respondent has violated Rule 573.52, PATIENT RECORD KEEPING, of the Board's Rules of Professional Conduct.

4. Based on Findings of Fact 13, and 14 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:

- (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

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(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 FERDINAND TAMAS , D.V.M., be FORMALLY REPRIMANDED.

The Board further ORDERS that Respondent pay a CIVIL PENALTY of ONE THOUSAND DOLLARS (\$1,000.00), payable within 45 days of the date of this Order. If Respondent fails to pay the civil penalty withing 45 days of the date of this Order, Respondent's license shall be automatically suspended until the civil penalty is paid.

The Board further ORDERS that Respondent shall submit, within 12 months of the date of this Order, complete patient records of at least eight patients treated during that 12-month period.

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

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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, FERDINAND TAMAS, 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.



Ferdinand Tamas, D.V.M.

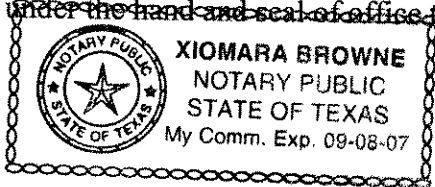
4-14-'05

Date

STATE OF TEXAS §
COUNTY OF FORT BEND §

BEFORE ME, on this day, personally appeared FERDINAND TAMAS, 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 14 day of APRIL, 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