

#### **DOCKET NO. 2005-35**

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS

IN THE MATTER OF

TEXAS STATE BOARD OF

THE LICENSE OF

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ROBERT TILLER, D.V.M.

VETERINARY MEDICAL EXAMINERS

### AGREED ORDER

On this the 9<sup>th</sup> 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 ROBERT TILLER, D.V.M. ("Respondent") Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on November 10, 2004. The Respondent appeared without counsel. The Board was represented 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 November 15, 2004, Tommy Clark, Keithville, Louisiana, presented his cow to Robert Tiller, D.V.M., Tiller Veterinary Clinic, Waskom, Texas, for a possible eye infection. Dr. Tiller placed the cow in a squeeze chute, and physically examined her. The cow laid down in the chute and appeared very nervous. Dr. Tiller administered an antibiotic injection, vitamins, and an ADE injection. He suggested that Mr. Clark increase the cow's feed, but said that the cow was "fine." Dr. Tiller then left to attend to another patient. The cow attempted to get up several times, but was unable to do so. Mr. Clark attempted to help the cow stand up, but the side door to the chute would not open. The non-functional chute door was a long standing problem, according to Dr. Tiller.
- 2. After a few minutes of being down in the chute, the cow started showing signs of horizontal nystagmus. Dr. Tiller tried a hotshot to get the cow up, but he was unsuccessful. Dr. Tiller told Mr. Clark to leave the cow at the clinic and return later in the day. When Mr. Clark returned, he observed the cow still in the chute and was convinced she was about to die. Dr. Tiller gave the cow a shot of epinephrine. Mr. Clark, with the assistance of others, continued to try to get the chute door open, and was finally able to do so after considerable effort. The cow died about two

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hours later. Dr. Tiller offered no explanation of what may have caused the death of the cow.

3. Dr. Tiller failed to draw blood for analysis and address the medical issues when it became apparent that the patient was in difficulty and appearing nervous. Dr. Tiller failed to assure that his chute was working properly. The cow may have had a chance to survive if she could have been timely removed from the chute. Dr. Tiller did not attempt to remove the chute side door. These actions and/or inactions 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 Waskom, Texas, or similar circumstances.

# 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 3, 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 1 through 3 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

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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 ROBERT C. TILLER, D.V.M., be FORMALLY REPRIMANDED.

The Board further ORDERS that Respondent pay a CIVIL PENALTY of FIVE HUNDRED DOLLARS (\$500), 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:

- 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

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ORDER.

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

I, ROBERT TILLER, 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.

Robert Tiller, D.V.M.	5/5/05 Date
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BEFORE ME, on this day, personally appeared ROBERT TILLER, 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  $\frac{1}{200}$  day of  $\frac{1}{200}$ 

DEBORAH I. DAVIS
Notary Public
STATE OF TEXAS
My Comm. Exp. 9-13-2007

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