

DOCKET NO. 2006-50

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IN THE MATTER OF § TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS
THE LICENSE OF §
BRUCE HARDESTY D.V.M. § VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this the 12th day of October, 2006, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of BRUCE HARDESTY, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on June 16, 2006. 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 June 30, 2005, Sarah Aultman, Martindale, Texas, presented her dog "Toby" to Bruce Hardesty, D.V.M., South Congress Veterinary Clinic, Austin, Texas, because of the dog's persistent itching. Dr. Hardesty examined "Toby", observed that the dog had some hair loss with pruritis and scabs on his ears, diagnosed him with allergies, and gave him an injection of cortisone. Several weeks later Ms. Aultman returned with the dog because the itching had returned. Dr. Hardesty sent the dog home with prednisone and a test for ringworm was run. The test was negative.
2. On August 26th, Ms. Aultman returned "Toby" to Dr. Hardesty because the dog's skin condition continued to worsen. The dog now had a full body rash and bleeding sores. By this time, Ms. Aultman had developed a rash on her abdomen, but Dr. Hardesty assured her that her rash was not related to the dog's problems. He then did a skin scrape on "Toby" which did not reveal any Sarcoptic or Demodex mites. Additional cortisone was administered. The dog's condition continued to worsen.
3. On August 31st, Ms. Aultman presented "Toby" to Julie House, D.V.M., at the San Marcos Veterinary Clinic, San Marcos, Texas. Dr. House immediately began treatment for Sarcoptic

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mites, and a scraping from an ear revealed a Sarcoptic type mite. She treated the dog with Revolution brown and Clavamox. A month later, the itching was better but the skin was flakier than it should have been. Additional treatment, including Etiderm shampoo, was initiated. On February 6, 2006, Ms. Aultman reported to a Board investigator that the dog's condition was greatly improved, but that she was going to schedule an appointment with a dermatologist to address the skin condition.

4. Confronted with symptoms of crusty ears, generalized itching, non-responsive treatment protocols and a human rash, Dr. Hardesty should have begun treatment for Sarcoptic mites, even with an initial negative skin scrape. To not do so 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 Austin, Texas, or in 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 Finding of Fact 4, 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 4 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;

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- (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 an administrative 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 BRUCE HARDESTY , 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 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 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.

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

I, **BRUCE HARDESTY**, 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.

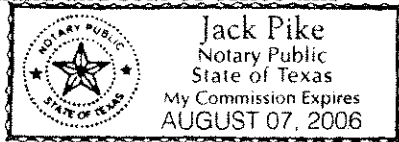
Bruce Hardesty, DVM
Bruce Hardesty, D.V.M.

7/19/06
Date

STATE OF TEXAS §
COUNTY OF TRAVIS §

BEFORE ME, on this day, personally appeared BRUCE HARDESTY, 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 19 day of July, 2006.



Jack Pike
Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 12th day of October, 2006.

Robert Lastovica, DVM
Robert Lastovica, D.V.M., President