

IN THE MATTER OF	§	TEXAS STATE BOARD OF
THE LICENSE OF	§	
GARY HEFNER 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 GARY HEFNER, 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 August 16, 2005, a Missouri Fox Trotter gelding named “Jack” belonging to Kathleen Knight, Garland, Texas, was being boarded at St. Jude’s Farm, Lucas, Texas. On that day, one of the owners of St. Jude’s, Joan Horak, called Ms. Knight to report that “Jack” had a swollen eye. Ms. Knight asked Gary Hefner, D.V.M., Allen, Texas, to make a farm call to examine the horse. Ms. Horak asked Dr. Hefner if he was going to stain the eye before treatment, but Dr. Hefner replied in the negative, stating that the horse probably had conjunctivitis. Dr. Hefner administered banamine and prescribed an ophthalmic steroid ointment (hydrocortisone) for the eye. Ms. Horak followed Dr. Hefner’s instructions for the administration of the ointment.
2. On August 17th, Ms. Horak reported that the swelling around the horse’s eye had decreased. But on August 18th, the eye was much worse. Ms. Knight called Dr. Hefner, but he was unavailable. Ms. Knight then arranged to have “Jack” picked up and transferred to the Parker Road Veterinary Hospital, Wylie, Texas, where he was examined by Victoria Smith, D.V.M. Dr. Smith performed a fluorescein stain test on the eye and diagnosed a large corneal ulcer. Dr. Smith dispensed Atropine and Gentamicin ointments and Flunixin meglumine paste for treatment. The next day (August 19th), the eye appeared worse, and the horse was examined in the evening by Chloe King, D.V.M. On August 20th, Ms. Knight elected to have a subpalpebral

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lavage system installed. Charles Kerin, D.V.M., installed the lavage system in "Jack's" eye. Drs. King and Kerin rechecked the eye on August 22nd, and on August 23rd, Ms. Knight transferred the horse to the Rockwall Equine Center to continue the treatments. At Rockwall, Dave Celella, D.V.M., examined the horse's eye and concluded that the ulcer had improved significantly and further deterioration had been arrested. A balloon delivery system was installed in place of the lavage system. "Jack" was discharged on October 4th.

3. Administering a topical steroid ointment to an eye in the presence of a puncture wound or corneal lesion is contraindicated. Dr. Hefner's failure to perform a fluorescein stain test of the patient's eye for evidence of a corneal lesion prior to administering topical hydrocortisone 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 Allen, 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 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 3 and 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 GARY HEFNER, 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, **GARY HEFNER, 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.

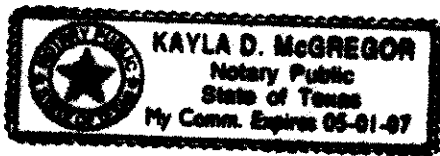
Gary Hefner DVM
Gary Hefner, D.V.M.

7-12-06
Date

STATE OF TEXAS §
COUNTY OF Collin §

BEFORE ME, on this day, personally appeared GARY HEFNER, 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 12th day of July, 2006.



Kayla D. McGregor
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

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