

DOCKET NO. 2006-63

IN THE MATTER OF § TEXAS STATE BOARD OF
THE LICENSE OF §
DANETTE SCHWEERS, 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 DANETTE SCHWEERS, D.V. M ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on August 31, 2006. The Respondent attended the conference 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 given 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. Following a March 11, 2006 episode of dogs mauling a stray cat in the backyard of Ginny Cooper ("Ms. Cooper"), San Antonio, Texas, two children were injured by the cat. One - Kimberly Cooper - was bitten, and the other - Samantha Panchevre - was scratched. Maricela Panchevre ("Ms. Panchevre"), mother of Samantha, took the cat and the two children to the Animal Emergency Room (AER), San Antonio, Texas. The cat died enroute to the AER. An unidentified staff member of the AER told Ms. Panchevre that the cat's body would be sent to San Antonio Animal Control to be tested for rabies and Ms. Panchevre would be informed of the results in about 10 days. A medical doctor told Ms. Panchevre that her daughter needed to have the scratches examined and Kimberley Cooper needed a course of antibiotics immediately. Kimberly was put on a 10-day treatment of Augmentin.
2. On March 20, 2006, Ms. Cooper called the AER to inquire about the rabies test results, but the AER staff told her they knew nothing about a cat being brought in on March 11th. On March 21st, Ms. Cooper went to the AER and was unable to get any information. She then contacted Animal Control and was told that Animal Control had received no animal from the AER. Further calls to the AER were futile. Thus, on March 22nd, Kimberly Cooper and Samantha Panchevre began a series of rabies inoculations on the assumption that the cat may have had rabies.

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3. On the evening of March 22nd, Danette Schweers, D.V.M., of the AER, called Ms. Panchevre and told her that she was doing everything possible to work with Animal Control to locate the cat, and placed most of the blame for the situation on Animal Control. However, on March 23rd, Dr. Schweers told Ms. Panchevre that the cat's body was found in an AER refrigerated storage closet. The body had been sent to the lab on the 23rd, and results would be forthcoming the next day. The results were negative for rabies. Because of the prior days of confusion over the location of the cat, Ms. Panchevre was unsure if the cat delivered to Animal Control was indeed the cat she delivered to the AER. Therefore, she decided to complete the series of rabies inoculations for Samantha that were begun on March 22nd.

4. Dr. Schweers reported to the Board that a bite report was done when the cat's body was delivered to the AER, and it was still attached to the body when it was found on March 23rd. Dr. Schweers apologized to the Cooper and Panchevre families for the mix-up and reportedly has taken steps to ensure that the situation does not occur again.

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 the facts recited above, Dr. Schweers has violated Rule 573.51 (d), RABIES CONTROL, of the Board's Rules of Professional Conduct, which states that a veterinarian having knowledge of an animal bite to a human shall immediately report the incident to the local health authority. Because of the potential seriousness of animal bites, Dr. Schweers should have personally determined that all reporting requirements were taken care of and made the necessary calls to have the cat's body picked up and processed.

3. Based on 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 DANETTE SCHWEERS , D.V.M., be FORMALLY 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, and Findings of Fact and Conclusions of Law herein set forth herein, 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 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 ORDER.

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

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I, DANETTE SCHWEERS, 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.

Danette Schweers, DVM
Danette Schweers, D.V.M.

9-30-06
Date

STATE OF TEXAS §
COUNTY OF Bexar §

BEFORE ME, on this day, personally appeared DANETTE SCHWEERS 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 20 day of October, 2006.

Memo G. Leake
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