

DOCKET NO. 2004-01

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TEXAS STATE BOARD OF
VETERINARY MEDICAL EXAMINERS

IN THE MATTER OF § TEXAS STATE BOARD OF
THE LICENSE OF §
MICHAEL OVERTON, D.V.M. § VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this the 19th day of February, 2004 came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of Michael Overton, D.V. M ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on October 14, 2003. The Respondent attended with 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 March 16, 2002, Ms. Michelle Yee, Allen, Texas, presented her dog "Herb" to Michael E. Overton, D.V.M., Allen Veterinary Hospital, Allen, Texas, because the dog was limping. The dog had previously been presented to Dr. Overton in November 2001, for lameness. At the March 16 examination, Dr. Overton observed that "Herb" was overweight and prescribed thyroid medication. Ms. Yee was unable to get the dog to stand, so Dr. Overton placed a towel under the dog's abdomen to lift him, but the dog fell "spread eagle" on the floor. Dr. Overton and Ms. Yee managed to get the dog to Ms. Yee's vehicle and Dr. Overton lifted him into her vehicle by his tail.
2. Over the next two days, "Herb" did not stand or urinate. On March 18, 2002, Ms. Yee again presented "Herb" to Dr. Overton. Dr. Overton administered IV fluids and Ms. Yee picked up the dog later in the day.
3. On March 21, 2002, Ms. Yee presented "Herb" to Kirk Esmond, D.V.M., Josey Ranch Pet Hospital, Carrollton, Texas. Dr. Esmond found that the dog was incontinent and paralyzed in his pelvic limbs. The dog was very depressed with rapid shallow breathing and dehydration. Dr.

Esmond discussed treatment options with Ms. Yee, but Ms. Yee elected to euthanize the dog.

4. Dr. Overton's patient records for "Herb" (March 16, 2002, March 18, 2002) contain very little information on diagnosis, diagnostic work and treatment of the animal. Dr. Overton took a radiograph of the dog's pelvis on March 16th, but no spinal radiographs were taken, despite the dog's obvious difficulties in moving and increasing paralysis. The radiograph was not noted in the patient record for March 16th. No treatment options were discussed with Ms. Yee, and referral to a specialist was not made.

5. Dr. Overton's failure to adequately diagnose the dog's condition and provide treatment options to the client, which necessitated the client taking the dog to another veterinarian, 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 community in Allen, Texas, or 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 Findings of Fact 1 through 5, 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, Respondent has violated Rule 573.52, PATIENT RECORD KEEPING, of the Board's Rules of Professional Conduct, which requires that patient records be complete and contain sufficient details to substantiate the examination, diagnosis, and treatment provided.

4. Based on Findings of Fact 1 through 5 and Conclusions of Law 1, 2, and 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
- (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 Michael Overton, 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 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 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.

I, MICHAEL OVERTON, 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.

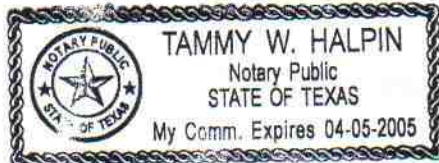

Michael Overton, D.V.M.

11-18-2003
Date

STATE OF TEXAS §
COUNTY OF Collin §


BEFORE ME, on this day, personally appeared MICHAEL OVERTON, 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 18th day of November, 2003.




Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 19th day of February, 2004.


Dee Pederson, D.V.M., President