

BEFORE THE KANSAS BOARD OF VETERINARY EXAMINERS

IN THE MATTER)

OF)
ROY A. BRAUM, DVM)
License Number: [REDACTED])
Respondent)

Case No. 18033

FILED

MAR 18 2019

KANSAS BOARD OF
VETERINARY EXAMINERS

Pursuant to K.S.A. Chapter 77

CONSENT AGREEMENT AND FINAL ORDER

NOW ON THIS 12th day of March, 2019, the above captioned matter comes before the Kansas Board of Veterinary Examiners ("Board"), by agreement with Roy A. Braum, D.V.M. ("Respondent"), for the purpose of resolving the above captioned matter.

The parties knowingly and voluntarily agree as follows:

1. Respondent is and was at all times relevant to this matter licensed by the Board to practice veterinary medicine in Kansas pursuant to K.S.A. 47-817 *et seq.*, and amendments thereto. Board records reflect that the Respondent was issued veterinary license number [REDACTED] on or about June 19, 1967. The Respondent's license to practice veterinary medicine in Kansas is current and will expire on June 30, 2019.

Case 18030

2. On or about October 10, 2018, information was received by the Board indicating that the Respondent may have violated certain provisions of the Kansas Veterinary Practice Act or the Kansas Administrative Regulations governing the practice of veterinary medicine in Kansas. A subsequent investigation revealed the following facts to be established by a preponderance of evidence:

- a. On August 21, 2018, [REDACTED] ("Owner") brought her cat to Respondent to be euthanized.
- b. Respondent failed to complete any medical records on August 21, 2018, for this procedure. Respondent did not record in the patient's medical record each dose of medication that was administered to the feline.
- c. The controlled substance log included an entry that on August 21, 2018, Respondent withdrew four (4) cc's of an euthanasia solution.
- d. Respondent reported that he first administered Rompum and Ketacet as an anesthetic. Then he administered an intracardiac injection of the euthanasia solution.
- e. Further, Respondent reported that he placed his hands around the body of the feline, and determined that the feline was deceased. Respondent did not use a stethoscope to auscultate for heart sounds or lung sound following this euthanasia procedure.

APPLICABLE LAW

3. K.S.A. 47-816(h)(1): Practice of veterinary medicine means, "To diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury or other physical or mental condition; including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthesia or other therapeutic or diagnostic substance or technique on any animal including but not limited to acupuncture, surgical or dental operations, animal psychology, animal chiropractic, theriogenology, surgery, including cosmetic surgery, any manual, mechanical, biological or chemical procedure for testing for pregnancy or for correcting sterility or infertility or to render service or recommendations with regard to any of the above and all other branches of veterinary medicine."

4. K.S.A. 47-830(o)(4): The Board, in accordance with the provisions of the Kansas Administrative Procedure Act, may refuse to issue a license, revoke, suspend, limit, condition, reprimand or restrict a license to practice veterinary medicine or an institutional license for violation of or attempting to violate, directly or indirectly, any provision of the Kansas Veterinary Practice Act or any rules and regulations adopted pursuant to such act. Specifically:

- a. K.A.R. 70-7-1(h)(2)(D): Each veterinarian shall ensure that all patient records are legible and made contemporaneously with treatment services rendered; and contain a complete record of the physical examination findings and treatment or services rendered.
- b. K.A.R. 70-8-1(b): ...[D]emonstrating a willful or careless disregard for the health, welfare, or safety of a patient.

5. K.S.A. 47-842: In addition to the board's authority to refuse licensure or impose discipline pursuant to K.S.A. 47-830, and amendments thereto, the board shall have the authority to assess a fine not in excess of \$5,000 against a licensee for each of the causes specified in K.S.A. 47-830, and amendments thereto. Such fine may be assessed in lieu of or in addition to such discipline. The proceedings under this act shall be conducted in accordance with the Kansas Administrative Procedure Act, and the board shall have all the powers granted therein.

6. Respondent and the Board mutually desire to enter into this Consent Agreement and Final Order in lieu of further summary and adjudicative proceedings.

7. Respondent understands that by entering into this Consent Agreement and Final Order Respondent waives all rights to further adjudication of facts and law that could be determined pursuant to summary proceedings or a hearing conducted in accordance with the Kansas Administrative Procedures Act, K.S.A. 77-501 *et seq.* in relation to Case No. 18033.

8. Respondent waives the right to file a motion for reconsideration and all rights of appeal pursuant to the Kansas Act for Judicial Review, K.S.A. 77-601 *et seq.* in relation to Case No. 18033.

9. The Board accepts Respondent's waiver of rights and stipulations.

ORDER

WHEREFORE, the Board finds that Respondent is in violation of K.S.A. 47-830(o)(4), as defined in K.A.R. 70-7-1(h)(2)(D), specifically, Respondent failed to ensure that at all times patient records contain a complete record of the physical examination findings and treatment or services rendered.

FURTHER WHEREFORE, the Board finds that Respondent is in violation of K.S.A. 47-830(o)(4), as defined in K.A.R. 70-8-1(b). Specifically, Respondent failed to complete the euthanasia procedure in an appropriate and accepted manner.

NOW THEREFORE, Respondent consents to the following terms and conditions, and the Board orders that:

10. Respondent shall successfully complete the on-line continuing education course titled, "Veterinary Record Keeping" available at:
Veterinaryrecordkeeping.com

11. Further, Respondent shall successfully complete the on-line continuing education course titled, "The Companion Animal Euthanasia Training Academy" available at
Aaha.org/caeta

12. All foreseen and unforeseen expenses to complete the aforementioned course including travel, lodging, program fee, meals, etc., shall be at Respondent's own expense.

13. These hours shall be in addition to those continuing education hours required for renewal of license.

14. Respondent shall all submit to the Board at its offices located at P.O. Box 379, Wamego, Kansas, 66547, the documents evidencing completion of the requirements required by this Consent Agreement and Final Order.

15. After completion of the actions set out in the Consent Agreement and Final Order, Respondent will have no remaining obligations to the Board in relation to this case. However, Respondent may be subject to further enforcement action if Respondent fails to comply with the terms, conditions, and requirements imposed by this Consent Agreement and Final Order.

16. The matters referred to in this Consent Agreement and Final Order shall not be grounds for future action against Respondent, except the extent that that such matters may be relevant for future disciplinary or licensure proceedings in the Board's consideration of the factors identified in K.S.A. 47-829 [Licenses; expiration; renewal; continuing education requirements], and K.S.A. 47-830 [Grounds for refusal to issue or revocation or suspension of license or other restriction], for establishing rehabilitation or a pattern of conduct.

17. Except as provided in paragraph 16, this Consent Agreement and Final Order shall operate as a complete release of all claims the parties may have against each other pending before the Board and arising out of the Board's investigation of these matters. Respondent agrees not to file, or cause to be filed, any litigation or claims in any federal or state court of law or ~~federal or state administrative agency against the Board, its agents, Board members, or~~ employees, individually or in their official capacity. Such litigation or claims include, but are not limited to, any K.S.A. Chapter 60 or Chapter 61 civil action regarding negligence and/or a 42 United States Code action and/or any administrative petition for redress. Respondent agrees that all actions in this matter were a bona fide use of administrative discretion on the part of the Board, its members, and employees, which is a statutory exception to liability within the Kansas Tort Claims Act, K.S.A. 75-6104(b), (c) or (e).

18. Respondent agrees that this Consent Agreement and Final Order conforms to Kansas and federal law and that the Board has jurisdiction to enter into it and enter the Final Order provided for herein.

19. Respondent understands that a notification of this Consent Agreement and Final Order shall be provided to any other state licensing board or entity if Respondent is also licensed, registered or certified in another state.

20. This Consent Agreement and Final Order shall be a public record in the custody of the Board. Additionally, this Consent Agreement and Final Order may be made know to the public by publication in the Board's newsletter and/or by a press release issued by the Board.

21. This Consent Agreement and Final Order constitutes the entire agreement of the parties and may only be modified by order of the Board or by a subsequent writing signed by the parties. The agreement shall be interpreted in accordance with the laws of the State of Kansas.

22. This Consent Agreement and Final Order shall become effective on the date indicated in the Certificate of Service.

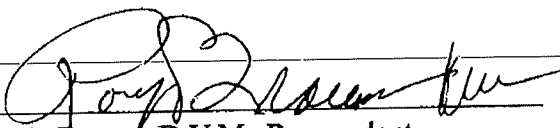
WHEREFORE, the parties consent to these provisions, which are hereby made the Final Order of the Kansas State Board of Technical Professions in the above-captioned case.

IT IS SO ORDERED.

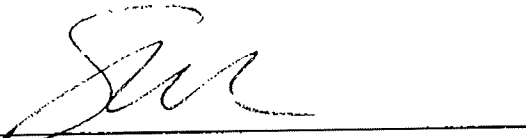
Signed:


On behalf of the Board of Veterinary Examiners

APPROVED AND CONSENTED TO BY:


Roy A. Braum, D.V.M., Respondent

2/21/19
Date


Sean Edwards
Attorney for Respondent

2/21/19
Date


CERTIFICATE OF SERVICE

This is to certify that on this 18th day of March, 2019, a true and correct copy of the above and foregoing Consent Agreement and Final Order was deposited in the U.S. Mail, first class postage prepaid, addressed to:

Sean Edwards
Sanders Warren Russell & Scheer LLP
9401 Indian Creek Parkway, Suite 1250
Overland Park, Kansas 66210
Attorney for Respondent

and by email to: jane.weiler@ag.ks.gov

Jane E. Weiler, No. 25276
Assistant Attorney General
Attorney for the Board


For the Kansas Board of Veterinary Examiners