

AUG 05 2013

DOCKET NO. 2013-130

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

**AGREED ORDER**

On this, the 22 day of October, 2013, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of Gary Brackeen, D.V.M. ("Respondent"). Pursuant to Section 801.2056, Texas Occupations Code, a committee of the Board's staff met on June 25, 2013 to consider alleged violations of the Veterinary Licensing Act and the Board's rules by Respondent.

Respondent, without admitting the truth of the findings and conclusions set out in this Agreed Order, wishes to waive a conference under Section 801.2056 and thereby dispose of the compliance issues set out below. Respondent agrees to comply with the terms and conditions set forth in this Order. In waiving the right to a conference, Respondent acknowledges his understanding of the alleged violations and the adequacy and sufficiency of the notice mailed to him.

Upon the recommendation of the staff 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. Respondent, Gary Brackeen, D.V.M. of Angleton, Texas, holds Texas veterinary license 3862.
2. The Board has jurisdiction over the subject matter and Respondent. Respondent has received all notice that may be required by law and by the Board's rules. All jurisdictional requirements have been satisfied.
3. On October 18, 2011, the Board entered Agreed Order No. 2011-74, disciplining Respondent for violations of the Board's Rules of Professional Conduct and the Veterinary Licensing Act, Texas Occupations Code, and ordering, in relevant part, that Respondent complete 17 hours of continuing education by October 18, 2012, including six hours in anesthesia, four hours in oncology, four hours in surgery, and three hours in recordkeeping.
4. Respondent failed to complete five of the ordered continuing education hours by October 18, 2012: 2.5 hours in surgery, and 2.5 hours in anesthesia.

5. On May 26, 2013, Respondent provided the Board with proof that he had completed seven additional hours of continuing education in surgery on May 5, 2013.

### **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 573.62, VIOLATION OF BOARD ORDERS/NEGOTIATED SETTLEMENTS, of the Board's Rules of Professional Conduct, by failing to obtain five hours of continuing education by October 18, 2012, as the Board ordered in Agreed Order No. 2011-74.

3. Based on Conclusions of Law 1 through 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 suspended;
- (4) reprimand a license holder; or
- (5) impose an administrative penalty

5. Based on Conclusions of Law 1 through 4, Respondent may be disciplined in the manner set out in Section 801.451, IMPOSITION OF ADMINISTRATIVE PENALTY, of the Veterinary Licensing Act, which authorizes an administrative penalty for violations of the Act and Board rules.

6. Based on Conclusions of Law 1 through 4, Respondent may be disciplined in the manner set out in Section 801.307, CONTINUING EDUCATION, of the Veterinary Licensing Act, which authorizes the makeup of missed continuing education hours in addition to the hours normally required to be completed in that calendar year.

NOW, THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Respondent is FORMALLY REPRIMANDED.

The Board ORDERS that Respondent pay, within 45 days of the date of this Order, an ADMINISTRATIVE PENALTY of ONE THOUSAND DOLLARS (\$1000.00). If Respondent fails to pay the administrative penalty within 45 days of the date of this Order, Respondent's license may be suspended until the penalty is paid.

In addition, the Board ORDERS that Respondent complete an additional TWO AND ONE-HALF (2.5) hours of continuing education in ANESTHESIA within one year of the date of this Order. Documentation of the completion of the continuing education penalty shall be received within thirty (30) days after one year of the date of this order. If Respondent fails to provide documentation of completion within forty-five (45) days of one year of the date of this order, Respondent's license may be suspended until the continuing education penalty is completed and documentation is received by the Board.

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 provision of the 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, Findings of Fact and Conclusions of Law herein set forth, 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 hearing and any right to seek judicial review of this Order. Respondent acknowledges that he is entitled to be represented by an attorney of Respondent's choice at his expense in any hearing before the Board.

**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. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.**

The date of this Agreed Order shall be the date it is adopted by the Texas Board of Veterinary Medical Examiners.

**I, GARY BRACKEEN, D.V.M., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT 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.**

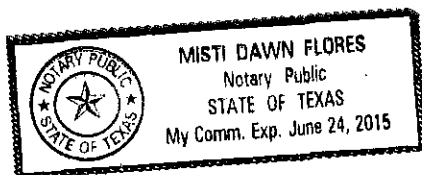
*Gary Brackeen*  
GARY BRACKEEN, D.V.M.

7-31-13  
DATE

STATE OF TEXAS  
COUNTY OF Brazoria

BEFORE ME, on this day, personally appeared GARY BRACKEEN, D.V.M., known to me to be the person whose name is subscribed to the foregoing Agreed Order, and acknowledged to me that he executed the same for the purposes stated therein.

Given under the hand and seal of office this 31 day of July, 2013.



*Misti Flores*  
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 22<sup>nd</sup> day of October, 2013.

*Bud E. Alldredge, Jr.*  
Bud E. Alldredge, Jr., D.V.M.  
President of the Board