DOCKET NO. 2010-92

IN THE MATTER OF § TEXAS BOARD OF

THE LICENSE OF § VETERINARY

ERIK GALLEGOS, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this the ____________ March 29, 2011, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Erik Gallegos, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on June 29, 2010. The Respondent was represented by counsel, Tony Reyes. The Respondent is now represented by Louis Leichter. 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 February 14, 2008, Erik Gallegos, D.V.M., of San Antonio, Texas entered into an Agreed Order with the Board for TBVME Docket No. 2008-40. Dr. Gallegos had previously signed the Agreed Order on February 6, 2008, and the Board had approved the Agreed Order. The Agreed Order suspended Dr. Gallegos's license for sixty months from the date of the order and probated the suspension for the entire sixty months. Dr. Gallegos was ordered to submit random periodic testing for urine and other possible drug testing methods, as determined by the Board's Executive Director, and provide to the Executive Director results from the urine drug screens not less than once a month for the period of suspension. In addition, Dr. Gallegos agreed to abide by the rules of the Board, the Veterinary Licensing Act and the laws of the State of Texas and the United States. After signing the Agreed Order, Dr. Gallegos was arrested for driving while intoxicated, while on his original court-ordered deferred adjudication from 2008. Therefore,
Respondent agreed to be sanctioned to an in-house drug treatment program run by the Texas Department of Criminal Justice as well as probation through February 11, 2012 and drug testing. Dr. Gallegos has signed a five year contract with the Board’s Peer Assistance Program.

2. An Agreed Order was sent to Dr. Gallegos, through his attorney of record, Tony Reyes, following an informal settlement conference on June 29, 2010. Dr. Gallegos signed the Agreed Order and entered into the Peer Assistance Program which included random drug testing. The order was pending approval by the Board, when staff for the Board received notification from Dr. Herbert Munden, Peer Assistance Coordinator, that Dr. Gallegos tested positive for propoxyphene [Darvocet] on August 4, 2010. Dr. Gallegos had not notified Dr. Munden, nor had Dr. Munden received a prescription to explain the positive test. Dr. Gallegos challenged the positive test result, and the remaining portion of the original sample was retested, and tested positive again. Dr. Gallegos is again not complaint with his Peer Assistance Program.

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 Facts, Respondent has violated Rule 573.62, VIOLATION OF BOARD ORDER/NEGOTIATED SETTLEMENTS, of the Board’s Rules of Professional Conduct, which requires all persons that are the subject of a Board Order shall abide by the terms of the order.

3. Based on the Finding of Facts and Conclusions of Law 1 and 2, Respondent has violated Section 801.402 (3) and (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:
   (3) is chronically or habitually intoxicated, chemically dependent, or addicted to drugs; or
   (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.

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

Based on the above Findings of Fact and Conclusions of Law, in lieu of any administrative penalties or reprimands associated with a finding of a violation of the Board’s rules and the Veterinary Licensing Act, Respondent agrees to voluntarily surrender his veterinary license and not seek reinstatement by the Board for five years from the date of this Order.

In addition, Respondent agrees to pay the Board for the testing of the original sample by the second laboratory within thirty days of this Board Order. Failure to pay for the testing will potentially impact Respondent’s petition for license reinstatement at a later date.

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 immediate further disciplinary action, including revocation.

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.

Agreed Order 2010-92
Erik Gallegos, D.V.M.
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 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 effective date of this Agreed Order shall be the date it is adopted by the Board.

_I, ERIK GALLEGOS, 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._

Erik Gallegos, D.V.M.  

3-22-2011

Date

STATE OF TEXAS  
COUNTY OF _Bexar_  

BEFORE ME, on this day, personally appeared Erik Gallegos, 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 22 day of _March_, 2011.

Notary Public

**SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 24 day of _March_, 2011.**

Bud E. Alldredge, Jr., D.V.M., President