

IN THE MATTER OF § TEXAS BOARD OF
THE LICENSE OF § VETERINARY
BRUCE HARDESTY, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this the 26 day of January 2016 came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of BRUCE HARDESTY, D.V.M. ("Respondent"). Pursuant to Section 801.2056, Texas Occupations Code, a committee of the Board's staff met on November 9, 2015, 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 an understanding of the alleged violations and the adequacy and sufficiency of the notice provided by mail.

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, BRUCE HARDESTY, D.V.M. of Austin, Texas, holds Texas veterinary license 7183.
2. The Board has jurisdiction over the subject matter and Respondent. Respondent received notice, which may be required by law and by the rules of the Board. All jurisdictional requirements have been satisfied under Tex. Occ. Code Ann. Title 4 (Act). By entering into this Agreed Order, Respondent waives any defect in the notice and any further right to notice and hearing under the Act; Tex. Gov't Code Ann. §§ 2001.051-.054; and the Rules of the Texas Board of Veterinary Medical Examiners (Board Rules) (22 Tex. Admin. Code, Chapter 575).
3. On August 20, 2015, a Board investigator conducted a compliance inspection at the South Congress Veterinary Clinic (the "Clinic"), in Austin, Texas, owned by Respondent.
4. Respondent was unable to produce a controlled substance log. Following the inspection, Respondent stated that he had since located the controlled substance log and brought it up to date.

5. The inspection revealed that Respondent's controlled substance lockbox was located in the administrative/office area, visible from outside windows, and was not secured to the wall or the ground.

6. The inspection also revealed that the Clinic was maintained in unsanitary condition. The Clinic was cluttered with debris. The surgical area had not been cleaned since a surgery performed the previous day, and still had blood-soaked cloth and surgical tools on the table.

7. Respondent has been disciplined by the Board on five previous occasions.

8. In 2006, Respondent was disciplined for violating Board Rule 573.22, PROFESSIONAL STANDARD OF HUMANE TREATMENT (amended in 2012 and 2015), by misdiagnosing Sarcoptic mites. Respondent received an informal reprimand.

9. In 2007, Respondent was disciplined for violating Board Rule 573.22, PROFESSIONAL STANDARD OF HUMANE TREATMENT (amended in 2012 and 2015), by waiting too long to provide treatment for an emergency situation, and for violating Board Rule 573.52, PATIENT RECORD KEEPING, by failing to document sufficient details upon which a diagnosis and treatment were based. Respondent received a formal reprimand.

10. In 2009, Respondent was disciplined for violating Board Rule 573.22, PROFESSIONAL STANDARD OF HUMANE TREATMENT (amended in 2012 and 2015), by failing to properly diagnose and treat renal failure. Respondent received a formal reprimand and was ordered to complete three hours of continuing education in the area of renal disease.

11. In 2012, Respondent was disciplined for violating Board Rule 573.62, VIOLATION OF BOARD ORDERS/NEGOTIATED SETTLEMENTS, by failing to provide documentation of completion of three hours of continuing education required by a previous Board order. Respondent received a formal reprimand, a \$500 administrative penalty, and was ordered to complete the required hours.

12. In 2013, Respondent was disciplined for violating Board Rule 573.43, MISUSE OF DEA NARCOTIS REGISTRATION, for administering, dispensing and prescribing controlled substances without a current DPS controlled substance registration.

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 above Findings of Fact, Respondent has violated Rule 573.50, CONTROLLED SUBSTANCES RECORDS KEEPING FOR DRUGS ON HAND, of the Board's Rules of Professional Conduct, by failing to maintain a correct log balance for controlled substances on hand.

3. Based on the above Findings of Fact, Respondent has violated Rule 573.61, MINIMUM SECURITY FOR CONTROLLED SUBSTANCES, which requires a licensed veterinarian in Texas to establish adequate security to prevent unauthorized access to controlled substances, establish adequate security to prevent the diversion of controlled substances, during the course of business activities, not allow any individual access to controlled substances storage areas except those authorized agents required for efficient operations, and to store controlled substances listed in Schedules I, II, III, IV, and V in a securely locked, substantially constructed cabinet or security cabinet.

4. Based on the above Findings of Fact, Respondent has violated Rule 573.79, MAINTENANCE OF SANITARY PREMISES, of the Board's Rules of Professional Conduct, which requires that a veterinarian maintain his office/clinic/hospital in a clean and sanitary condition without any accumulation of trash, debris, or filth.

5. Based on the above Conclusions of Law, 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.

6. Based on the above Conclusions of Law, 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.

7. Based on the above Conclusions of Law, 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.

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, be FORMALLY REPRIMANDED.

The Board further ORDERS that the license of Respondent is SUSPENDED for TWO YEARS from the date the Board adopts this Order. However, the suspension is STAYED and Respondent placed on probation.

The Board ORDERS that Respondent pay, within 45 days of the date the Board approves this Order, an ADMINISTRATIVE PENALTY of TWO THOUSAND DOLLARS (\$2,000.00). If Respondent fails to pay the administrative penalty within 45 days of the date the Board approves this Order, the Board may apply any payment to the Board to renew a license to pay any outstanding administrative fee owed to 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 provisions of the Licensing Act or the Board Rules, may result in further disciplinary action.

Respondent, by signing this Agreed Order, acknowledges an understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law herein set forth herein, and agrees to 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 the right to a formal hearing and any right to seek judicial review of this Agreed Order. Respondent acknowledges having the right to be 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, BRUCE HARDESTY, 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.

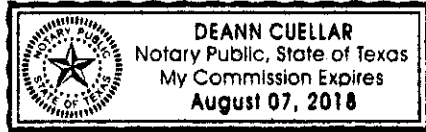
Bruce Hardesty, DVM
BRUCE HARDESTY, D.V.M.

12/10/15
Date

STATE OF TEXAS §
COUNTY OF TARRANT §

BEFORE ME, on this day, personally appeared BRUCE HARDESTY, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that it was executed the same for the purposes stated therein.

Given under the hand and seal of office this 10 day of December, 2015



Deann Cuellar
Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 26 day of January, 2016

R. Lenarduzzi, DVM
Roland Lenarduzzi, DVM
Interim, Board President