

JUN 29 2016

TBVME  
LEGAL DEPT.

DOCKET NO. 2016-107

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

**AGREED ORDER**

On this the 19 day of July, 2016 came to be considered by the Texas Board of Veterinary Medical Examiners (the Board) the matter of the license of Bruce Hardesty, D.V.M. ("Respondent"). Pursuant to Section 801.408 of the Texas Occupations Code, and Board Rule 575.29, an informal conference was held on May 23, 2016. Respondent did not attend the informal conference. 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 understanding the alleged violations and the adequacy and sufficiency of the notice provided.

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. 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 December 15, 2015, Karen Phillips, TBVME Director of Enforcement, and Tyler Ferguson, TBVME Investigator, inspected South Congress Veterinary Clinic ("clinic").

4. During the inspection, a number of sanitation concerns were noted. Specifically, countertops in the treatment area were cluttered with veterinary-related utensils and tools, as well as non-veterinary-related items. Trash bags full of unknown trash and waste were observed in the treatment area as well as the surgical area.
5. Observation of the clinic's surgical area revealed surgical linens soiled with dried blood. According to Dr. Hardesty and clinic staff, the soiled linens had been there two days.
6. A review of Dr. Hardesty's controlled substance log indicated that Dr. Hardesty was not maintaining balances on hand for controlled substances.
7. Respondent has been disciplined by the Board on six 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 NARCOTICS REGISTRATION, for administering, dispensing and prescribing controlled substances without a current DPS controlled substance registration.
13. In 2016, Respondent was disciplined for violating Board Rules 573.50, CONTROLLED SUBSTANCES RECORDKEEPING FOR DRUGS ON HAND, 573.61, MINIMUM SECURITY FOR CONTROLLED SUBSTANCES, and 573.79, MAINTENANCE OF SANITARY PREMISES. Respondent was placed on a two-year probated suspension and received a \$2,000 administrative penalty.

### 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 4 and 5, Respondent has violated Rule 573.79, MAINTENANCE OF SANITARY PREMISES, of the Board's Rules of Professional Conduct.
3. Based on Finding of Fact 6, Respondent has violated Rule 573.50, CONTROLLED SUBSTANCES RECORDS KEEPING FOR DRUGS ON HAND of the Board's Rules of Professional Conduct.
4. Based on Findings of Fact 1 through 6 and Conclusions of Law 1 through 3, Respondent has violated Sections 801.402(6) and (15) 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 practice or conduct that violates the board's rules of professional conduct;

...

(15) fails to keep the person's equipment and business premises in a sanitary condition.

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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: (a)

- (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.

6. 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.

### **Aggravating and Mitigating Factors**

1. In determining the appropriate sanction in this matter, the Board considered the following aggravating factor: Respondent's history of previous violations.
2. In determining the appropriate sanction in this matter, the Board considered the following mitigating factor: Respondent took steps to correct the sanitation problems in the clinic.

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 receive a FORMAL REPRIMAND.

The Board further ORDERS that Respondent's license be SUSPENDED for two years, with said suspension stayed and Respondent placed on probation for the entire period of suspension.

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, which is the date this Order is signed by the Board, 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, the laws of the State of Texas, and the laws of 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 Agreed 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 understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law 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 understood 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. 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.

**Signature page follows.**

C DOCKET No. 2016-107

Complaint # CP16-128

I, BRUCE HARDESTY, 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.

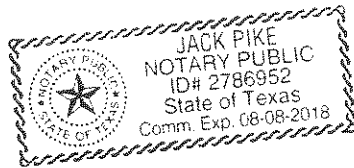
Bruce Hardesty  
Bruce Hardesty, D.V.M.

6-24-16  
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 executing the same for the purposes stated therein.

Given under the hand and seal of office this 24 day of June, 2016.



[Signature]  
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 19 July, 2016

[Signature]  
Roland Lenarduzzi, D.V.M., Board President

