AGREED ORDER

On this the 26th day of January, 1998, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board"), the matter of the license of Angus MacDonald, DVM, ("Respondent" or "Dr. MacDonald"). Pursuant to the Veterinary Licensing Act ("Act") § 18F and Rule 575.27, on January 6, 1998, Respondent appeared in person, at an Informal Conference in response to a letter of invitation from the Board. The Board was represented at the Informal Conference by the Enforcement Committee.

Respondent wishes to waive a formal adjudicative hearing and to enter into this Agreed Order. In waiving an adjudicative hearing Respondent acknowledges understanding of the alleged violations and the adequacy and sufficiency of the notice provided to him.

Upon 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. Angus MacDonald, DVM, is a veterinarian licensed by the Board to practice veterinary medicine in the state of Texas under license number 2638, 1997 renewal certificate number 3073. Respondent is subject to prior disciplinary action by the Board.

2. The Board has jurisdiction over the subject matter and Respondent. Respondent has received all notice which may be required by law and by the Board Rules. All jurisdictional requirements have been satisfied.

3. On or about December 3, 1996, Mike Carroll, investigator for TSBVME, and George Hebert, agent for DPS narcotics, conducted an investigation of the Ellis County Volunteer Animal Shelter (Facility), 209 Spring Circle, Red Oak, Texas.

4. Ms. Laurie Thompson, the Facility owner, was not present when the investigators arrived. The Facility was being operated that day by Ms. Joyce Martin. After explaining the nature of the investigation Ms. Martin contacted Ms. Thompson by telephone. Ms. Thompson then gave permission to inspect the Facility.
5. Numerous prescription drugs were discovered at the Facility. A complete inventory was taken by investigators Carroll and Hebert. Investigator Carroll spoke with Ms. Thompson on the telephone, and she informed him that the prescription drugs had been purchased from Barber & Lundberg, 4920 Rondo Drive, Fort Worth, Texas, a veterinary drug wholesale company. The account was in the name of the animal shelter, but Angus MacDonald, DVM was listed on the account as the veterinarian. According to Ms. Thompson, Respondent performed some of the Facility’s veterinary work, and she performed the remainder using the drugs she purchased.

6. Ms. Thompson was informed that she could not maintain possession of the prescription drugs. They had not been dispensed to her by Respondent and he had not labeled the drugs. She was informed that only government affiliated shelters could purchase and possess prescription drugs. The name of the Facility includes the words “Ellis County”, but is privately owned.

7. On or about December 4, 1996, investigator Carroll arrived at the MacDonald Animal Clinic, 6125 Denton Drive, Dallas, Texas. The clinic is owned by Respondent. Ms. Thompson arrived at the clinic at about the same time as Mr. Carroll. Ms. Thompson had in her possession all the prescription drugs that had been inventoried the day before. She released all of the drugs to Respondent.

8. Respondent was asked by Mr. Carroll if he had authorized the prescription drugs to be directly shipped to Ms. Thompson’s animal shelter. Respondent said he had. When asked if he had sent any drugs to treat a specific animal, Respondent stated he had not and that Ms. Thompson ordered what she needed at the Facility. Respondent was instructed by Mr. Carroll that any drugs dispensed to Ms. Thompson in the future must be from Respondent’s clinic and properly labeled. Respondent agreed.

9. Rabies vaccines were among the drugs discovered at the Facility. According to Respondent the rabies vaccines were used for vaccination clinics he conducted to benefit the animal shelter. Dates for these clinics were on or about March 23, 1996, April 27, 1996 and October 26, 1996. Respondent stated that he had not notified the Board of his temporary limited service clinics.

10. Respondent did not have copies of rabies certificates for any of the rabies clinics. Respondent did not have any patient records of any animals he treated for Ms. Thompson.

11. An inspection was performed on Respondent’s clinic patient records. Of the sampling examined, it was discovered that multiple animals were on the same record and that no individual vaccinations were listed for the animals.
12. On or about October 6, 1997, investigator Carroll accompanied Texas Department of Health investigator George Jackson on an inspection of Barber & Lundberg, 4920 Rondo Drive, Fort Worth, Texas. During the inspection investigator Carroll inquired as to any recent purchases made by Ellis County Volunteer Animal Shelter. The records were checked by Jack Satterfield, Operations Manager, Southern Region. After checking the records Mr. Satterfield informed investigator Carroll that Respondent is still the veterinarian of record for the Ellis County Volunteer Animal Shelter, and that they would not ship any prescription drugs to that facility without a designated veterinarian.

13. According to Barber & Lundberg invoice no. 463459, on or about May 28, 1997, the following prescription drugs were shipped directly to the animal shelter: one hundred Griseofulvin tablets 250mg and BNP (Akspore) ophthalmic ointment. Also dispensed on that same invoice were 200ml Dera-Pen (bovine only) and two tubes of Panacur Equine Paste, which are over the counter unless used off label. It is alleged that there are no large animals at the shelter.

Conclusions of Law

1. Respondent is required to comply with the provision of the Act and Board Rules.
2. Section 14(a) of the Act authorizes the Board to revoke or suspend a license, impose a civil penalty, place a licensee on probation, or reprimand a licensee based on certain acts.
3. Based on Findings of Fact 5, 6, 8 and 13, Respondent has violated Rule 573.41 - Use of Prescription Drugs of the Rules of Professional Conduct.
5. Based on Findings of Fact 9 and 10, Respondent has violated Rule 573.51 - Rabies Control of the Rules of Professional Conduct.
7. Based on Findings of Fact 3 through 13, Respondent has violated Act § 14 (a) (5) by engaging in practices or conduct in connection with the practice of veterinary medicine which were violative of the standards of professional conduct duly promulgated by the Board.
8. Based on any one of Conclusion of Law 3 through 7 Respondent is subject to disciplinary action by the Board under Act § 14(a).
DOCKETED COMPLAINT NO. 1998-05

TEXAS STATE BOARD OF VETERINARY § TEXAS VETERINARY MEDICAL
MEDICAL EXAMINERS § LICENSE NO. 2638
vs. § 1997 RENEWAL CERTIFICATE
ANGUS MACDONALD, DVM § NUMBER 3073

COMPLAINT AFFIDAVIT

Before me, the undersigned authority, a Notary Public in and for Texas, on this day personally appeared Mike Carroll, who after being duly sworn, did depose and say:

On or about December 2, 1996, Mike Carroll, being an employee of the Texas State Board of Veterinary Medical Examiners, did in the course of such employment, make certain investigations into the professional conduct of one Angus MacDonald, D.V.M., MacDonald Animal Clinic, 6125 Denton Drive, Dallas, Texas, 75235, Veterinary License Number 2638, 1997 Renewal Certificate Number 3073, a practitioner of veterinary medicine in the State of Texas. As an employee of the Texas Board of Veterinary Medical Examiners, I, Mike Carroll, do hereby present the following complaint against Angus MacDonald, D.V.M.

I.

On or about December 3, 1996, Mike Carroll, investigator for TSBVME, and George Hebert, agent for DPS narcotics, conducted an investigation of the Ellis County Volunteer Animal Shelter (Facility), 209 Spring Circle, Red Oak, Texas.

II.

Ms. Laurie Thompson, the Facility owner, was not present when the investigators arrived. The Facility was being operated that day by Ms. Joyce Martin. After explaining the nature of the investigation Ms. Martin contacted Ms. Thompson by telephone. Ms. Thompson then gave permission to inspect the Facility.

III.

Numerous prescription drugs were discovered at the Facility. A complete inventory was taken by investigators Carroll and Hebert. Investigator Carroll spoke with Ms. Thompson on the telephone, and she informed him that the prescription drugs had been purchased from Barber & Lundberg, 4920 Rondo Drive, Fort Worth, Texas, a veterinary drug wholesale company. The account was in the name of the animal shelter, but Angus MacDonald, D.V.M. was listed on the account as the veterinarian. According to Ms. Thompson, Dr. MacDonald performed some of the Facility’s veterinary work, and she did the rest using the drugs she purchased.
IV.

Ms. Thompson was informed that she could not maintain possession of the prescription drugs. They had not been dispensed to her by Dr. MacDonald and he had not labeled the drugs. She was informed that only government affiliated shelters could purchase and possess prescription drugs. The name of the Facility includes the words "Ellis County", but it is privately owned.

V.

On or about December 4, 1996, investigator Carroll arrived at the MacDonald Animal Clinic, 6125 Denton Drive, Dallas, Texas. The clinic is owned by Dr. Angus MacDonald. Ms. Thompson arrived at the clinic at about the same time as Mr. Carroll. Ms. Thompson had in her possession all the prescription drugs that had been inventoried the day before. She released all of the drugs to Dr. MacDonald.

VI.

Dr. MacDonald was asked by Mr. Carroll if he had authorized the prescription drugs to be directly shipped to Ms. Thompson’s animal shelter. He said he had. When asked if he had sent any drugs to treat a specific animal, he stated he had not and that Ms. Thompson ordered what she needed at the Facility. Dr. MacDonald was instructed by Mr. Carroll that any drugs dispensed to Ms. Thompson in the future must be from his clinic and properly labeled. He agreed.

VII.

Rabies vaccines were among the drugs discovered at the Facility. According to Dr. MacDonald the rabies vaccines were used for vaccination clinics he conducted to benefit the animal shelter. Dates for these clinics were on or about March 23, 1996, April 27, 1996 and October 26, 1996. Dr. MacDonald stated that he had not notified the Board of his temporary limited service clinics.

VIII.

Dr. MacDonald did not have copies of rabies certificates for any of the rabies clinics. Dr. MacDonald did not have any patient records of any animals he treated for Ms. Thompson.

IX.

An inspection was performed on Dr. MacDonald’s clinic patient records. Of the sampling examined, it was discovered that multiple animals were on the same record and that no individual vaccinations were listed for the animals.

X.

On or about October 6, 1997, investigator Carroll accompanied Texas Department of Health investigator George Jackson on an inspection of Barber & Lundberg, 4920 Rondo Drive, Fort
Worth, Texas. During the inspection investigator Carroll inquired as to any recent purchases made by Ellis County Volunteer Animal Shelter. The records were checked by Jack Satterfield, Operations Manager, Southern Region. After checking the records Mr. Satterfield informed investigator Carroll that Dr. MacDonald is still the veterinarian of record for the Ellis County Volunteer Animal Shelter, and that they would not ship any prescription drugs to that facility without a designated veterinarian.

XI.

According to Barber & Lundberg invoice no. 463459 on or about May 28, 1997, the following prescription drugs were shipped directly to the animal shelter: one hundred Griseofulvin tablets 250mg and BNP (Akspore) ophthalmalic ointment. Also dispensed on that same invoice were 200ml Dera-Pen (bovine only) and two tubes of Panacur Equine Paste, which are over the counter unless used off label. It is alleged that there are no large animals at the shelter.

XII.

Based on paragraphs III, IV, VI, and XI, Dr. MacDonald has violated 573.41 - Use of Prescription Drugs of the Rules of Professional Conduct.

XIII.

Based on paragraphs VII and VIII, Dr. MacDonald has violated Rule 573.70 - Operation of Temporary Limited-Service Veterinary Services of the Rules of Professional Conduct.

XIV.

Based on paragraphs VII and VIII, Dr. MacDonald has violated Rule 573.51 - Rabies Control of the Rules of Professional Conduct.

XV.

Based on paragraph IX, Dr. MacDonald has violated Rule 573.52 - Patient Record Keeping of the Rules of Professional Conduct.

XVI.

Based on paragraphs XII through XV, Dr. MacDonald has also violated Section 14 (a) (5) of the Veterinary Licensing Act., article 8890.
ARTICLE 8890, SECTION 14

(a) the Board may revoke or suspend a license, impose a civil penalty, place a person whose license has been suspended on probation, or reprimand a licensee... if it finds that a licensee:

(5) has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with the law;

The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the 9th day of January 1998.

Further, Affiant sayeth not.

Mike Carroll, Affiant

SUBSCRIBED and SWORN TO before me by the said Mike Carroll this the 7th day of January 1998.

Charles A. Adkins, Notary Public In and for Texas

The foregoing Complaint is hereby filed and docketed with the Texas State Board of Veterinary Medical Examiners and styled Texas State Board of Veterinary Medical Examiners vs. Angus MacDonald, D.V.M. under Docketed Number 1998-05 this the 17th day of June 1998.

Howard M. Head, DVM, Board Secretary
Texas State Board of Veterinary Medical Examiners
Order

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Dr. MacDonald’s veterinary license be and is hereby SUSPENDED for a period of three (3) months commencing on the date this agreement is approved by the Board. Dr. MacDonald is placed on probation for a period of two (2) years commencing on the date this agreement is approved by the Board, and during the period of probation the said suspension shall be stayed, provided however, that Dr. MacDonald fully complies with all conditions of probation set forth below:

a. Respondent must take and pass the State Board Jurisprudence Examination within forty-five (45) days of the Board’s approval of this Agreed Order.

b. Respondent must close any accounts at veterinary drug wholesale companies on which he is listed as the veterinarian of record for the Ellis County Volunteer Animal Shelter. Respondent shall further convey to all veterinary drug wholesale companies with which he has previously had an account that the company is not to provide drugs to the Ellis County Volunteer Animal Shelter based on Respondent’s authority.

c. 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.

Respondent shall immediately notify the Board of any circumstances which occur after the date of this Order and constitute a breach of his conditions of probation. Respondent shall cooperate with the Board, its attorneys, investigators, compliance officers and other employees and agents, to verify that respondent has complied and is in compliance with this Agreed Order.

Failure to comply with any provision of the conditions of probation will automatically lift the stay of Respondent’s license suspension, and Respondent’s veterinary license shall be suspended for a period of three (3) months from the date that the condition was violated. Respondent agrees in this event to voluntarily surrender his license for the three (3) month period. If Respondent fails to immediately surrender his license and/or continues to practice veterinary medicine, after being notified by the Board to cease and desist, Respondent agrees that his acts shall constitute the unauthorized practice of veterinary medicine.

Upon successful completion of the period of probation as set out above, the suspension of Respondent’s license ceases to be in effect.

Failure by Respondent to comply with the terms of this Agreed Order or with all other provisions of the Act or the Board Rules, may result in further disciplinary action.
Respondent, Angus MacDonald, DVM, by signing this Agreed Order, agrees to its terms, acknowledges his understanding of it and the notice, findings of fact and conclusions of law in this Agreed Order.

Respondent, Angus MacDonald, DVM, 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. NOTHING IN THIS ORDER SHALL BE DEEMED A WAIVER OF RESPONDENT'S RIGHTS UNDER STATUTE OR 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 date of this Agreed Order shall be the date it is adopted by the Texas State Board of Veterinary Medical Examiners.

I, ANGUS MACDONALD, DVM, HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE. I ACKNOWLEDGE THAT I AM ENTITLED TO BE REPRESENTED BY AN ATTORNEY OF MY CHOICE AT MY EXPENSE. I HAVE VOLUNTARILY REPRESENTED MYSELF.


ANGUS MACDONALD/DVM
RESPONDENT

STATE OF TEXAS
COUNTY OF Dallas

Before me, 2.5.98, on this day personally appeared Angus MacDonald, DVM, known to me to be the person whose name is subscribed to the foregoing Agreed Order, and acknowledged to me that he executed that same for the purpose stated therein.
Given under my hand and seal of office this the 5th day of February, 1998.

[Notary Public's Seal]

PAULA K. STEWART
Notary Public
STATE OF TEXAS
Commission Expires 06/04/97

Notary Public, in and for the State of Texas

This agreed order has been entered between Dr. Angus MacDonal and Ron Allen, the Executive Director of the Texas State Board of Veterinary Medical Examiners, in concurrence with the Board Secretary. It is presented to the Board as a recommendation only.

RON ALLEN, Executive Director, TSBVME

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this 5th day of February, 1998.

Michael J. McCulloch, D.V.M., President