



provisions, the Order required Respondent to submit to an evaluation with the Board's Peer Assistance Program, Peer Recovery Network ("PRN"), and to follow all of PRN's recommendations.

4. Respondent's required evaluation was scheduled for November 6, 2014. The day before the scheduled evaluation, Respondent informed PRN that he intended to retire his license and would not be attending. On November 10, 2014, the Board received notification from PRN that Respondent failed to submit to the required evaluation, and that he had been discharged from PRN. Respondent contacted PRN on December 8, 2014, and stated that he would like to move forward with the evaluation.
5. Respondent submitted to an evaluation and hair follicle test on January 8, 2015. Respondent's hair tested positive for cocaine and benzoylecgonine, a metabolite of cocaine. The evaluating physician diagnosed Respondent with substance abuse disorders and recommended inpatient treatment, as well as neuropsychological and psychological evaluations. The evaluating physician further stated that Respondent could not be deemed fit to practice veterinary medicine.
6. When PRN contacted Respondent about the results of the evaluation, Respondent denied using cocaine and stated that he did not accept the results of the hair follicle test. Respondent informed PRN that he had recently purchased a veterinary clinic. When asked if he would comply with the recommendation for inpatient treatment, Respondent indicated that he would not comply.
7. On April 30, 2015, Respondent submitted to an inpatient evaluation by a second physician. Respondent submitted to urine, hair, and blood tests as part of the evaluation. The evaluating physician stated that the test results were inconsistent with Respondent's reports of rare, minimal alcohol consumption. The evaluating physician diagnosed Respondent with substance abuse disorders and recommended 60-90 days of inpatient treatment. Additionally, the evaluating physician stated that Respondent should not practice veterinary medicine until he completes an inpatient treatment program and is reevaluated for fitness for duty.
8. Respondent did not comply with PRN's recommendations to complete inpatient treatment as required by the Order. Therefore, Respondent violated the Order.

#### **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 8, Respondent has violated Section 801.402(6) of the Veterinary Licensing Act, which provides that a licensee is subject to disciplinary action if the licensee violates the Board's Rules of Professional Conduct, and Board Rule 573.62, which requires a licensee to abide by the terms of Board Orders.

3. Based on Findings of Fact 5 and 7, Respondent has violated Section 801.402(3) of the Veterinary Licensing Act, which provides that a licensee is subject to disciplinary action if the person is chronically or habitually intoxicated, chemically dependent, or addicted to drugs.
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...
- (e) The board may issue a disciplinary order directing a veterinarian to participate in the peer assistance program under Section 801.157 if the board determines that the veterinarian is an impaired professional as defined by Section 467.001, Health and Safety Code.

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 is SUSPENDED for at least TWO YEARS, with the suspension continuing until the respondent completes inpatient treatment as recommended by the Board's Peer Assistance Program, and is declared fit to practice veterinary medicine.

In addition, the board ORDERS that Respondent complete a Peer Assistance Contract under the Board's Peer Assistance Program for five years from the date Respondent enters inpatient treatment as recommended by the Board's Peer Assistance Program. Respondent shall follow all recommendations of the Peer Assistance Program Coordinator, including recommendations to complete inpatient treatment. Upon completion of the suspension, Respondent shall be evaluated and must be declared fit to practice before resuming the practice of veterinary medicine.

After Respondent enters into a contract with the Board's Peer Assistance Program, Respondent shall, at the request of a representative of the Board or the Board's Peer Assistance Program, with or without notice, submit to appropriate examinations, including screenings for alcohol and drugs, through either a saliva, urine, blood, sweat, or hair specimen, to determine by laboratory analysis whether Respondent is free of prohibited drugs and alcohol. Respondent shall pay any costs

associated with these analyses. Respondent shall execute any and all releases for medical records necessary to evaluate compliance with this order, or necessary to effectuate this order. Any violation of the terms of the contract with the Board's Peer Assistance Program subjects Respondent to possible immediate revocation of his license.

During the term of Respondent's contract with the Board's Peer Assistance Program, Respondent shall abstain from the consumption of prohibited substances as defined below, except as prescribed by another physician to Respondent for legitimate and documented therapeutic purposes. As used in this provision, "consumption" means any manner of ingestion, including oral, injection, topical, inhalation, or otherwise. Prohibited substances include:

1. Alcohol in any form;
2. Dangerous drugs, as defined in Chapter 483, Tex. Health & Safety Code;
3. Controlled substances, as defined in Chapter 481, Tex. Health & Safety Code;
4. Any substance, in any form, including over-the-counter (OTC) agents and food products that may cause a positive drug or alcohol test.

The following is an illustrative, but not exclusive, list of prohibited substances:

1. Stimulants
2. Appetite suppressants
3. Medication for ADD/ADHD
4. Anti-anxiety agents
5. Antidepressants
6. Antihistamines
7. Anticholinergics
8. Antispasmodics
9. Recreational, mind-altering drugs
10. Any product containing pseudophedrine or epinephrine
11. Alcohol
12. Any product containing alcohol, including mouthwashes, cough medicines, after shave

lotions, colognes, hand sanitizing formulas, and dietary and herbal supplements

13. Food containing any of the above and/or poppy seeds.

Within five days after receipt of this signed Board Order, Respondent shall:

1. Provide to the Board's General Counsel a list of all prohibited substances that Respondent is currently consuming, whether by prescription or otherwise;
2. Give any treating physician or dentist a copy of this Order; and
3. Cause any treating physician or dentist to report all prescriptions and orders for any prohibited substance within five days after the treating physician or dentist receives this Order. The report shall include the medical condition being treated; the supporting documentation, including lab results to substantiate the diagnosis; the substance prescribed, dispensed or administered; the amount of such substance; and any refills authorized.

During the term of Respondent's contract with the Board's Peer Assistance Program, Respondent shall:

1. Provide to the Board's General Counsel a list of all subsequent prescriptions and any subsequent orders for prohibited substances within 24 hours after receipt of the subsequent prescription or order;
2. Give any subsequent treating physician or dentist a copy of this Order within five days after the initiation of the treatment; and
3. Cause any subsequent treating physician or dentist to report all prescriptions and any orders for prohibited substances to the Board's General Counsel no later than five days after receipt of this Order by the treating physician. The report shall include the medical condition being treated; the supporting documentation, including lab results to substantiate the diagnosis; the substance prescribed, dispensed or administered; the amount of such substance; and any refills authorized.

If Respondent consumes any prohibited substance in any form without prescription or order authorized by a physician for a legitimate medical purpose, Respondent shall report the consumption in writing within 24 hours to the Board's General Counsel.

A violation of this Order shall include: (1) a positive or a positive-dilute screen for prohibited drugs or alcohol, or a metabolite of prohibited drugs or alcohol; (2) an adulterated specimen; (3) a substituted specimen; or (4) a refusal or failure to submit to random screenings. Should a specimen be reported as negative-dilute, Respondent may be required to undergo additional testing and may be subject to further Board action. A violation may be based on drug and alcohol screening under the Peer Assistance Program or any other drug and/or alcohol testing.

- (a) Evidence of a violation of this Order under this provision and any other information related to Respondent's violation of this Order may be presented to Board representatives at an informal proceeding held in accordance with 22 Tex. Admin. Code, §575.29.
- (b) If the Board representatives at such informal proceeding determine that Respondent is in violation of this Order pursuant to this provision, the Board representatives may direct the Executive Director to immediately **REVOKE** Respondent's veterinary license. **THIS REVOCATION SHALL BE EFFECTIVE IMMEDIATELY WITHOUT THE NEED FOR A FORMAL HEARING BEFORE THE BOARD, A PANEL OF THE BOARD, OR THE STATE OFFICE OF ADMINISTRATIVE HEARINGS OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE VETERINARY LICENSING ACT OR THE ADMINISTRATIVE PROCEDURE ACT. RESPONDENT WAIVES ANY SUCH HEARING OR ANY SUCH DUE PROCESS AND ALL RIGHTS OF APPEAL IN REGARD TO THE SUSPENSION.**
- (c) If Respondent is revoked under this provision, a Board representative shall file a formal complaint under Section of the Veterinary Licensing Act as soon as practicable, alleging the violations of this Order under this provision and seeking revocation of the Respondent's license. The formal complaint may also include allegations of other violations of this Order and violations of the Veterinary Licensing Act. The parties may resolve the issues by an agreed order, either before or after the filing of a formal complaint. **RESPONDENT DOES NOT WAIVE AND SPECIFICALLY RESERVES THE RIGHT TO A HEARING BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS, WITH ALL RIGHTS PROVIDED BY THE VETERINARY LICENSING ACT OR THE ADMINISTRATIVE PROCEDURE ACT AND THE RIGHT TO SEEK JUDICIAL REVIEW OF THE FINAL ORDER.**

Respondent shall be solely responsible for and promptly pay all costs and charges by any facility that conducts screens on Respondent pursuant to this Order to determine whether Respondent has ingested alcohol or drugs. Respondent's failure to promptly pay these costs shall constitute a violation of this Order and shall be grounds for further disciplinary action under the Act.

Respondent shall inform the Board in writing of any change of Respondent's office or mailing address within 10 days of the address change. This information shall be submitted to the Director of Licensing and the Board's General Counsel. Failure to provide such information in a timely manner shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

If Respondent becomes employed by another person or entity during the term of this Order, the Board **ORDERS** Respondent to notify his employer of this Order. Respondent shall provide the Board with a signed acknowledgment from his employer within 30 days of the date Respondent

commences employment acknowledging that the employer has read and understands this Order.

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 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 his understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law 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.

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 acknowledges that he had 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.

I, CLAY McCREARY, 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.

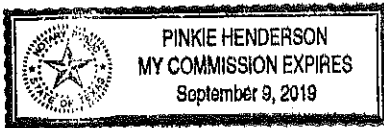
Clay McCreary DVM  
Clay McCreary, D.V.M.

10/21/15  
Date

STATE OF TEXAS §  
COUNTY OF TRAVIS §

BEFORE ME, on this day, personally appeared Clay McCreary, 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 21<sup>st</sup> day of October, 2015



Pinkie Henderson  
Notary Public

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

R. Lenarduzzi DVM  
Roland Lenarduzzi  
Interim Board President