DOCKET NO. 2012-78

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

AGREED ORDER

On this the 30th day of October, 2012, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Michael Mixon, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code, and Board Rule 575.29, an informal conference was held on August 27, 2012. Respondent attended 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 his understanding of the alleged violations and the adequacy and sufficiency of the notice provided to him.

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, Michael Mixon, D.V.M. of San Antonio, Texas, holds Texas veterinary License 7859.

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).

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3. Respondent owns the Texas Veterinary Hospitals, three veterinary clinics in the San Antonio, Texas, located respectively at 2325 Northwest Military Highway, Suite 111; 3493 Fredericksburg Road; and 2949 Thousand Oaks, Suite 1.

4. Respondent holds federal Drug Enforcement Administration ("DEA") and Texas Department of Public Safety ("DPS") controlled substance registration certificates issued for a single address: 2325 Northwest Military Highway, Suite 111, San Antonio, Texas.

5. Respondent had all controlled substances shipped to the 2325 Northwest Military Highway location, before distributing them to the two other clinic locations, where the controlled substances were then stored or dispensed to patients.

6. Under both Texas state law and federal law, a veterinarian must have a separate controlled substance registration for each principal place of business or professional practice where controlled substances are stored, administered, or dispensed by a person.

7. On January 13, 2012, board investigators conducted a compliance inspection at the Texas Veterinary Hospital on 3493 Fredericksburg Road in San Antonio, Texas.

8. The inspection revealed that the controlled substance log for the Texas Veterinary Hospital at 3493 Fredericksburg Road did not balance with the drugs on hand.

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 6, Respondent has violated Rule 573.4, ADHERENCE TO LAW, of the Board’s Rules of Professional Conduct, by failing to comply with TEX. HEALTH & SAFETY CODE §481.061 and 21 CFR §1301.12, both of which requires that a veterinarian have a separate controlled substance registration for each principal place of business or professional practice where controlled substances are stored, administered, or dispensed by a person.

3. Based on the Findings of Fact 7 and 8, Respondent has violated Rule 573.50, CONTROLLED SUBSTANCES RECORDS KEEPING FOR DRUGS ON HAND, of the Board’s Rules of Professional Conduct, which requires veterinarians to maintain at their place of business records of all scheduled drugs listed in the Texas Controlled Substances Act in their possession, including the name of the drug, the date of acquisition, the quantity purchased, the date administered or dispensed, the quantity administered or dispensed, the name of the client and patient receiving the drugs, and the balance on hand.

4. Based on Findings of Fact 1 through 8 and Conclusions of Law 1 through 3, 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.

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.

(d) In addition to other disciplinary actions authorized by this subchapter, the board may require a license holder who violates this chapter to participate in a continuing education program.

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 shall take and pass the Texas veterinary jurisprudence examination within 90 days from the date of this Agreed 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.

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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, MICHAEL MIXON, 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.

[Signature]
MICHAEL MIXON, D.V.M.

DATE
9/13/12

STATE OF TEXAS
COUNTY OF BEXAR

BEFORE ME, on this day, personally appeared Michael Mixon, 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.

[Stamp]
AMANDA GAERTNER
Notary Public
STATE OF TEXAS
My Comm. Exp. 12-17-2015

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RECEIVED
SEP 17 2012
TECARS STATE BOARD OF VETERINARY MEDICAL EXAMINERS
Given under the hand and seal of office this 13 day of September, 2012.

Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 30th day of October, 2012.

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

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