

DOCKET NO. 2015-107

IN THE MATTER OF	§	TEXAS BOARD OF
THE LICENSE OF	§	VETERINARY
DANIEL O'NEIL, D.V.M.	§	MEDICAL EXAMINERS

AGREED ORDER

On this the 21 day of July, 2015 came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Daniel O'Neil, D.V.M. ("Respondent"). Pursuant to Section 801.2056, Texas Occupations Code, a committee of the Board's staff met on January 15, 2015, to consider alleged violations of the Veterinary Licensing Act and the Board's rules by Respondent. Respondent is represented by Keith O'Connell of O'Connell and Avery, LLP of 13750 San Pedro, Suite 110, San Antonio, Texas.

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 his understanding of the alleged violations and the adequacy and sufficiency of the notice mailed 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, Daniel O'Neil, D.V.M. of Fredericksburg, Texas, holds Texas veterinary license 5338.
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 July 11, 2014, the Board initiated a complaint against Respondent based on information received from the Oklahoma State Board of Veterinary Medical Examiners ("Oklahoma Board"). The Oklahoma Board provided the Board with information that

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Respondent had dispensed some medication to Steve Seibert ("Mr. Seibert") of the Triple S Wildlife Ranch in Calvin, Oklahoma which did not bear a label in compliance with Board Rules.

4. The Oklahoma Board provided the Board with photographs of the prescription labels for seven bottles of Tiletamine HCl/Zolazepam HCl ("Telazol") that Respondent prescribed to a Mr. Seibert. The labels fail to include the client's address, the species of the animal for which the medication is dispensed, and the directions of use.

5. Respondent stated that the Telazol was incorrectly dispensed by his veterinary technician because Tolazoline was what Respondent had prescribed and what was supposed to be dispensed to Mr. Seibert along with Xylazine, Succinylcholine, Cydectin, and Tetradure. Respondent also acknowledges that the labels are missing information required to be included on any medications dispensed.

6. Telazol is an injectable anesthetic/tranquilizer combination while Tolazoline is an alpha-adrenergic blocker used primarily as a reversal agent for Xylazine.

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 573.40, LABELING OF MEDICATIONS DISPENSED, of the Board's Rules of Professional Conduct, by failing to include required information on unlabeled containers containing any medication dispensed and to all factory labeled containers that contain prescription (legend) drugs and/or controlled substances dispensed.

3. Based on Findings of Fact 1 through 6, Respondent has violated Rule 573.41, USE OF PRESCRIPTION DRUGS, of the Board's Rules of Professional Conduct, by prescribing, providing, obtaining, ordering, administering, possessing, dispensing, giving, or delivering to or for any person prescription drugs that are not necessary or required for the medical care of animals.

4. Based on Finding of Facts 1 through 6 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:

- (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 Conclusions of Law 1 through 5, 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 ORDERS that Respondent pay, within 45 days of the date the Board approves this Order, an ADMINISTRATIVE PENALTY of ONE THOUSAND DOLLARS (\$1000.00). 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 Respondent shall take and pass the Texas jurisprudence examination within 90 days from the date the Board approves 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.
- 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 his understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law herein 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 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, DANIEL O'NEIL, 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.


DANIEL O'NEIL, D.V.M.


Date

STATE OF TEXAS §
COUNTY OF Gillespie §

BEFORE ME, on this day, personally appeared DANIEL O'NEIL, 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 16th day of February, 2015



Angela J. Koch
Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 21 day of July, 2015.

Bud E. Alldredge, Jr.
Bud E. Alldredge, Jr., D.V.M.
President of the Board