DOCKET NO. 2014-29

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

AGREED ORDER

On this, the 18 day of February, 2014, came on to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of DANIEL P. O’NEIL, D.V.M. ("Respondent"). Pursuant to Section 801.2056, Texas Occupations Code, a committee of the Board’s staff met on October 30, 2013, to consider alleged violations of the Veterinary Licensing Act and the Board’s rules by Respondent.

Respondent, without admitting the truth of the findings and conclusions set out in this Agreed Order, wishes to waive an informal proceeding under Section 801.408 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 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, DANIEL P. 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 has received all notice that may be required by law and by the Board’s rules. All jurisdictional requirements have been satisfied.

3. On May 2, 2013, Director of Enforcement, Karen Phillips and Investigator Emilio Morales conducted a compliance inspection at the Pedernales Veterinary Center (the “Center”) in Fredericksburg, Texas.

4. Respondent owns and operates the Center.
5. During the compliance inspection, Director Phillips and Investigator Morales determined that Respondent’s controlled substance log at the Center for Euthasol and Ketaset did not balance with the Euthasol and Ketaset 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 5, Respondent has violated Rule 573.50, CONTROLLED SUBSTANCES RECORDS KEEPING FOR DRUGS ON HAND, of the Board’s Rules of Professional Conduct, by failing to record the balance on hand for controlled substances Euthasol and Ketaset.

3. Based on Finding of Facts 1 through 5 and Conclusions of Law 1 and 2, 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.

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.

5. Based on Conclusions of Law 2 and 3, 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 Daniel P. O’Neil, D.V.M., be FORMALLY REPRIMANDED.

The Board ORDERS that Respondent pay, within 45 days of the date of 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 of 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:

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 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. 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 HEREBIN. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

Agreed Order 2014-29
Daniel P. O’Neil, D.V.M.
The effective date of this Agreed Order shall be the date it is adopted by the Board.

I, DANIEL P. 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 P. O'Neil, D.V.M.

December 5, 2013

STATE OF TEXAS §
COUNTY OF §

BEFORE ME, on this day, personally appeared Daniel P. 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 05th day of December, 2013

ANGELA J. KOCH
Notary Public
JULY 19, 2016

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 18th day of February, 2014.

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

Agreed Order 2014-29
Daniel P. O’Neil, D.V.M.