DOCKET NO. 2013-128

IN THE MATTER § TEXAS STATE BOARD OF
OF THE LICENSE OF § VETERINARY MEDICAL EXAMINERS
BARTON OWENS, D.V.M. §

AGREED ORDER

On this, the 22 day of October, 2013, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of Barton Owens, D.V.M. ("Respondent"). Pursuant to Section 801.2056, Texas Occupations Code, a committee of the Board's staff met on June 25, 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 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, Barton Owens, D.V.M. of Gilmer, Texas, holds Texas veterinary license 4574.

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. From April 3, 2012 until December 11, 2012, Respondent allowed the Humane Society of North Texas ("HSNT") to use his Texas veterinary license number and name to purchase medications and vaccines for animals in the shelter from Webster Veterinary Supply.

4. Although Respondent believed that HSNT intended to buy only over-the-counter drugs and vaccines under his name in order to obtain a discount, HSNT bought prescription drugs and vaccines using Respondent’s name and Texas veterinary license number.
5. Respondent did not have a veterinarian-client-patient relationship with the animals for which HSNT ordered prescription drugs and vaccines using Respondent’s name and veterinary license number.

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 573.41, USE OF PRESCRIPTION DRUGS, of the Board’s Rules of Professional Conduct, by failing to establish a veterinarian-client-patient relationship prior to ordering delivered prescription drugs.

3. Based on Findings of Fact 1 through 5, Respondent has violated Section 801.351 of the Veterinary Licensing Act, Texas Occupations Code, by failing to maintain a veterinarian-client-patient relationship by examining the animal sufficiently to possess sufficient knowledge of the animal to initiate a diagnosis of the animal’s medical condition prior to practicing veterinary medicine.

4. Based on Conclusions of Law 1 through 3, Respondent has violated Section 801.402 (4) and (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:

(4) engages in...illegal practices in, or connected with, the practice of veterinary medicine...

(6) engages in practices or conduct that violates the board’s rules of professional conduct.

4. 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

5. Based on Conclusions of Law 1 through 4, 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 receive an INFORMAL REPRIMAND.

The Board ORDERS that Respondent pay, within 45 days of the date of this Order, an ADMINISTRATIVE PENALTY of FIVE HUNDRED DOLLARS ($500.00). If Respondent fails to pay the administrative penalty within 45 days of the date of this Order, Respondent's license may be suspended until the penalty is paid.

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 provision of the 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, Findings of Fact and Conclusions of Law herein set forth, 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 hearing and any right to seek judicial review of this Order. Respondent acknowledges that he is entitled to be represented by an attorney of Respondent's choice at his expense in any hearing before the Board.

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 date of this Agreed Order shall be the date it is adopted by the Texas Board of Veterinary Medical Examiners.

I, BARTON OWENS, D.V.M., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT 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.

BARTON OWENS, D.V.M.  
DATE 7-17-13

STATE OF TEXAS  
COUNTY OF

BEFORE ME, on this day, personally appeared Barton Owens, D.V.M., known to me to be the person whose name is subscribed to the foregoing Agreed Order, and acknowledged to me that he executed the same for the purposes stated therein.

Given under the hand and seal of office this 17th day of July, 2013.

LEIGH L. MOORE  
NOTARY PUBLIC  
STATE OF TEXAS  
My Comm. Expires 09-21-2016

Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 27th day of October, 2013.

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