DOCKET NO. 2013-171

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

AGREED ORDER

On this the 27th day of October, 2013, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Steven Pirkey, D.V.M. ("Respondent"). Pursuant to Section 801.2056, Texas Occupations Code, a committee of the Board’s staff met on August 26, 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, Steven Pirkey, D.V.M. of Sachse, Texas, holds Texas veterinary license 6060.

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 January 12, 2013, Fred Canady presented his six year old male Boxer named Dax to Respondent at the Sachse Veterinary Hospital ("Hospital") in Sachse, Texas because Dax was
4. After observing Dax for several days, on January 16, 2013, Respondent diagnosed Dax has possibly having abdominal cancer. Respondent recommended that Dax have radiographs and an ultrasound to confirm the diagnosis, but Mr. Canady declined and instead elected to euthanize Dax.

5. Respondent planned to euthanize Dax that day, but his staff urged him to perform exploratory surgery to see if Dax could be saved. Respondent scheduled the exploratory surgery for February 12, 2013.

6. On February 9, 2012, Carla Canady received a call from an anonymous caller, informing her that Dax was still alive. On February 11, 2013, Mr. and Mrs. Canady went to the Hospital and retrieved Dax. Ms. Canady then took Dax to another veterinarian, who determined that Dax should be euthanized immediately to prevent further suffering. Ms. Canady agreed, and Dax was euthanized.

7. Respondent refunded all fees that he had received from Mr. and Mrs. Canady.

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 Sections 801.402 (12) 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:

(12) performs or prescribes unnecessary or unauthorized treatment...

3. Based on Conclusions of Law 1 and 2, 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.

4. 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 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, and any payment by the Respondent to the Board to renew his license will be applied toward the payment of any administrative fee owed to the Board, and further enforcement action may be taken.

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 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, STEVEN PIRKEY, 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.

STEVEN PIRKEY, D.V.M.

DATE

STATE OF TEXAS

COUNTY OF Dallas

BEFORE ME, on this day, personally appeared Steven Pirkey, 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 23 day of Sept., 2013.

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 22nd October, 2013.

Agreed Order 2013-171
Steven Pirkey, D.V.M.