DOCKET NO. 2016-101

IN THE MATTER OF § TEXAS BOARD OF
THE LICENSE OF § VETERINARY
JAIME PRESLEY, DVM § MEDICAL EXAMINERS

AGREED ORDER

On this the 19 day of April, 2016, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Jaime Presley, DVM ("Respondent"). Pursuant to Section 801.2056, Texas Occupations Code, a committee of the Board's staff met on February 18, 2016, 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 understanding of the alleged violations and the adequacy and sufficiency of notice.

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, Jaime Presley, DVM, of San Marcos, California, holds Texas veterinary license 10615.

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. From April 2010 through July 2015, Respondent was engaged by Beyond the Rainbow Pe: Hospice as an independent contractor to practice veterinary medicine. Beyond the Rainbow Pe: Hospice is not owned by a veterinarian.

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. The practice of veterinary medicine includes the receipt of compensation for the diagnosis, treatment, correction, change, manipulation, relief, or prevention of animal disease, deformity, defect, injury, or other physical condition, including the prescription or administration of a drug, biologic, anesthetic, apparatus, or other therapeutic or diagnostic substance or technique.

3. Based on the above Findings of Fact, Respondent has violated Texas Occupations Code Section 801.352, PROHIBITION AGAINST INTERFERENCE OR INTERVENTION, by entering into an agreement that could have resulted in interference with Respondent’s practice of veterinary medicine by a person not licensed to practice veterinary medicine in Texas.

4. Based on the above Findings of Fact, Respondent has violated Texas Occupations Code Section 801.506, PROHIBITED PRACTICES RELATING TO CERTAIN ENTITIES, by entering into an agreement with a legal entity to practice veterinary medicine when the legal entity was not owned exclusively by one or more persons licensed to practice veterinary medicine in Texas.

5. Based on the above Conclusions of Law, Respondent has violated Section 801.402(4) and (20) 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 or the practice of equine dentistry;

   ...

   (20) practices veterinary medicine or assists in the practice of veterinary medicine without a license issued under this chapter....

6. Based on the above Conclusions of Law, 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.

7. Based on the above Conclusions of Law, 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 FIVE HUNDRED DOLLARS ($500.00). 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 ORDERS that Respondent shall take and pass the Texas veterinary 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 understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law herein set forth herein, and agrees to 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 the right to a formal hearing and any right to seek judicial review of this Agreed Order. Respondent acknowledges that Respondent 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.

Agreed Order 2016-101
Jaime Presley, DVM
The effective date of this Agreed Order shall be the date it is adopted by the Board.

Signature page follows.
I, JAIME PRESLEY, DVM, 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.

Jaime Presley, DVM
Date 3-22-16

STATE OF TEXAS §
COUNTY OF §

BEFORE ME, on this day, personally appeared Jaime Presley, DVM, known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that it was executed the same for the purposes stated therein.

Given under the hand and seal of office this _____ day of _____________, 20_.

[Seal Attached] Certificate
Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 19 day of April, 2016.

[Signature]
Roland Lenarduzzi, Board President

Agreed Order 2016-101
Jaime Presley, DVM
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of San Diego

On 31-22-2016 before me, Daniel Ross Estell

Date

personally appeared Jaime le Fresley

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Signature of Notary Public

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Agreement

Document Date: 31-22-2016

Number of Pages: 5

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer’s Name:

Corporate Officer — Title(s):
Partner — Limited General
Individual Attorney in Fact
Trustee Guardian or Conservator

Signer Is Representing:

Signer’s Name:

Corporate Officer — Title(s):
Partner — Limited General
Individual Attorney in Fact
Trustee Guardian or Conservator

Signer Is Representing:

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