

Received

OCT 07 2016

DOCKET NO. 2017-055

IN THE MATTER OF

§

TEXAS BOARD OF

Texas State Board of  
Veterinary Medical Examiners

THE LICENSE OF

§

VETERINARY

MICHAEL RAINEY, D.V.M.

§

MEDICAL EXAMINERS

### AGREED ORDER

On this the 18 day of October 2016, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Michael Rainey, D.V.M. ("Respondent"). Pursuant to Section 801.2056, Texas Occupations Code, a committee of the Board's staff met on September 8, 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, Michael Rainey, D.V.M., of Alvarado, Texas, holds Texas veterinary license 12152.
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 19, 2016, Board investigators conducted an on-site inspection of Respondent at Alvarado Veterinary Clinic in Alvarado, Texas. The inspection revealed that Respondent did not have an accurate balance on hand for ketamine, Buethanasia, or tramadol. The controlled substance log had two entries for ketamine, one which showed a recorded balance of 52.34mls and another which showed a recorded balance of -470.87mls. The controlled substance log had entries for both "Euthanasia solution" and Buethanasia. The "Euthanasia solution" log showed a recorded balance of 4,774mls, while the Buethanasia log showed a recorded balance of -4,702.92mls. The controlled substance log showed a recorded balance of -4,564 tablets for tramadol.

4. Respondent stated that the controlled substance log presented to the Board investigator was not the correct log, and that the non-veterinarian staff member in charge of maintaining the facility's controlled substance logs was not present on the day of the inspection. However, the DEA registrant that ordered controlled substances for the facility was present at the time of the inspection. Respondent stated that the facility has implemented protocols to familiarize several veterinarians with the proper controlled substance log procedure.
5. Respondent does not hold a DEA registration. Respondent does not order controlled substances for the facility.
6. Respondent does not have prior violations of a similar nature.

### **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 the above Findings of Fact, 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 maintain a correct log balance for controlled substances on hand.
3. Based on the above Conclusions of Law, 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 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.

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 INFORMALLY REPRIMANDED.

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.

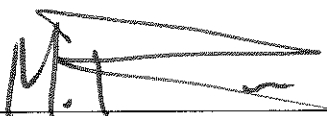
Respondent, by signing this Agreed Order, waives the right to a formal hearing and any right to seek judicial review of this Agreed Order. Respondent acknowledges that Respondent had the right to be represented by legal counsel in this matter.

**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.**

The effective date of this Agreed Order shall be the date it is adopted by the Board.

**Signature page follows.**

I, Michael Rainey, 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.

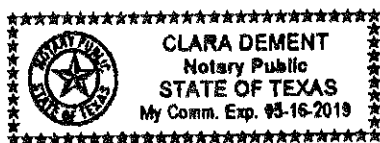
  
Michael Rainey, D.V.M.


10/4/16  
Date

STATE OF TEXAS §  
COUNTY OF Chapman §

BEFORE ME, on this day, personally appeared Michael Rainey, D.V.M., 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 4th day of Oct, 2016



  
Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 18 day of October, 2016.

  
Roland Lenarduzzi, D.V.M., Board President