DOCKET NO. 2004-06

IN THE MATTER OF

THE LICENSE OF

RICKY C. ROGERS, D.V.M.

§ TEXAS STATE BOARD OF
§ VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this the 19th day of February, 2004, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of Ricky C. Rogers, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on January 12, 2004. The Respondent attended with counsel. The Board was represented at the conference by the Board’s Enforcement Committee.

Respondent, without admitting the truth of the findings and conclusions set out in this Agreed Order, wishes to waive a formal adjudicative hearing and thereby informally dispose of the issues without a formal adjudication. 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 Enforcement 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. Based on information received from an out-of-state veterinarian, the Board opened a case on Ricky C. Rogers, D.V.M., Rogers Animal Hospital, Corsicana, Texas, for alleged violations of Rule 573.44, COMPOUNDING DRUGS, of the Board’s Rules of Professional Conduct. A Board investigator visited the Rogers Animal Hospital on April 2, 2003, to conduct an on-site inspection.

2. The April 2nd inspection revealed the presence of an assortment of compounded drugs in Dr. Rogers’ inventory, including the following: Micotil-Gentamicin, Micotil-Lincomycin, Nuflox-Lincomycin, Ivermectin Injectable and Pour-on, Banminte II, and Sodium Thioulsulfate Nitrate. Several of the bottles containing the drugs listed “cattle” as the patient and some were labeled “for clinic use only.” None had been prepared for specific patients following examination of the patients and establishment of the veterinarian-patient-client relationship.

3. The compounded drugs specified in Finding of Fact 2 had been prepared where no valid veterinarian-client-patient relationship existed, in anticipation of need. Dr. Rogers typically examines cattle herds, establishes a veterinarian-patient-client relationship, and then prescribes
and dispenses the pre-prepared compounded drugs to the patients. Dr. Rogers did not establish the elements of Rule 573.44 for specific patients prior to having drugs compounded.

4. The Board investigator examined a service information brochure for the Rogers Animal Hospital. It stated that Dr. Rogers "specializes in Herd and Stocker/Feeder Cattle Consultation." No such specialization is recognized by a specialty board in veterinary medicine.

**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 2 and 3 and Conclusion of Law 1, Respondent has violated Rule 573.44 (e) (1), COMPOUNDING DRUGS, of the Board’s Rules of Professional Conduct, which prohibits the "preparation for sale of large quantities of unapproved new animal drugs on an ongoing basis where no valid medical need or veterinarian-client-patient relationship exists." Respondent has also violated Rule 573.44 (f) (3) (A) which states that "compounding can only be performed within the confines of a legitimate veterinarian-client-patient relationship."

3. Based on Finding of Fact 4, Respondent has violated Rule 573.30, ADVERTISING, of the Board’s Rules of Professional Conduct, which prohibits "a statement or implication that a veterinarian is a certified or recognized specialist unless the veterinarian is board certified as recognized by the American Veterinary Medical Association in such specialty...."

4. Based on Findings of Fact 1 through 4 and Conclusions of Law 1 through 3, 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.

5. 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 a civil 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 Ricky C. Rogers, D.V.M., be FORMALLY 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 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 was 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, RICKY C. ROGERS, 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.
Ricky C. Rogers, D.V.M.                                           1-24-04

STATE OF TEXAS                                      §
COUNTY OF Navarro                                    §

BEFORE ME, on this day, personally appeared RICKY C. ROGERS, 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 23rd day of January, 2004.

DORIS M. LONG
Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL
EXAMINERS on this the _____ day of ______, 2004.

Dee A. Pederson, D.V.M., President