

IN THE MATTER § TEXAS STATE BOARD OF
OF THE LICENSE OF § VETERINARY
JAMES L. ROGERS, D.V.M. § MEDICAL EXAMINERS

Received
SEP 11 2015

Texas State Board of
Veterinary Medical Examiners

AGREED ORDER

On this the 13th day of October, 2015, came to be considered by the Texas Board of Veterinary Medical Examiners (Board) the matter of the license of JAMES L. ROGERS, D.V.M. (Respondent). Pursuant to Section 801.409, Texas Occupations Code, and Board Rule 575.35, the Board's Executive Disciplinary Committee (EDC) met on July 10, 2015, without notice to the Respondent, and entered an Order of Temporary Suspension against him. On July 20, 2015, the Board's Enforcement Committee (EC) met in an informal conference with Respondent. Respondent attended the informal conference, but was not represented by 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. Respondent, JAMES L. ROGERS, D.V.M. of Austin, Texas, holds Texas veterinary license 2353.
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. Respondent is the only living veterinarian associated, in the Board's records, with Lone Star Veterinary Hospital in Austin, Texas ("Clinic").

4. On July 8, 2015, two Board investigators conducted a compliance inspection on Respondent at his Clinic. On July 20, 2015, Respondent met with the Board's Enforcement Committee. Respondent admitted that he performs euthanasia by administering an anesthetic, such as Xylazine or Ketamine, and then succinylcholine. Respondent acknowledged that succinylcholine is not recommended for euthanasia, but stated that he believes it's acceptable when an anesthetic is utilized prior to succinylcholine. This method is not ordinarily used for euthanasia by average members of the veterinary medical profession in Austin or in similar communities. Respondent indicated that he does not use the preferred euthanasia methods because he has difficulty administering intravenous therapy (IV) to some of his patients. Additionally, Respondent stated that he does not weigh all of his patients before treatment.

5. A review of Respondent's patient records showed that Respondent does not fully document patient weight or temperature. The records also lack details of examination, diagnosis, or treatment, and the details of drugs prescribed, administered, or dispensed.

6. During the compliance inspection on July 8, 2015, Respondent told the investigators that he performed the occasional surgery and had recently removed a tumor from a dog that was still in the clinic. When asked what controlled substances were used to perform that surgery, Respondent showed the investigators two unsecured bottles of Ketamine. The Drug Enforcement Administration (DEA) later confiscated a bottle of Euthasol from Respondent's Clinic. Respondent had no drug logs for any of the controlled substances in his Clinic.

7. Respondent did not complete any continuing education for the years 2012, 2013, or 2014, despite certifying that he had obtained the required 17 hours for each of those years when he renewed his veterinary license.

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 573.22, PROFESSIONAL STANDARD OF CARE, of the Board's Rules of Professional Conduct, which requires licensees to exercise the same degree of humane care, skill, and diligence in treating patients as are ordinarily used in the same or similar circumstances, including the type of practice, by average members of the veterinary medical profession in good standing in the locality or geographic community in which they practice, or in similar communities.

3. Based on the above Findings of Fact, Respondent has violated Rule 573.52, VETERINARIAN PATIENT RECORD KEEPING, of the Board's Rules of Professional Conduct, which requires licensees to maintain individual records for each patient that contain certain information, including weight, temperature; details necessary to substantiate and document the examination, diagnosis, treatment, or surgical procedure performed; names, dosages, concentration, and routes of administration of each drug prescribed, administered, or dispensed.

4. Based on the above Findings of Fact, Respondent has violated Rule 573.50, CONTROLLED SUBSTANCES RECORDS KEEPING FOR DRUGS ON HAND, which requires that licensees maintain at their place of business records of all scheduled drugs listed in the Texas Controlled Substances Act in their possession.

5. Based on the above Findings of Fact, Respondent has violated Rule 573.61, MINIMUM SECURITY FOR CONTROLLED SUBSTANCES, which requires that licensees ensure the safety of controlled substances by storing controlled substances in a securely locked, substantially constructed cabinet or security cabinet.

6. Based on the above Findings of Fact, Respondent has violated Rule 573.64, CONTINUING EDUCATION REQUIREMENTS, which requires licensees to complete 17 hours of continuing education each year.

7. 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.

8. 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.

.... (d) In addition to other disciplinary actions authorized by this subchapter, the board may require a license holder who violates this chapter to participate in a continuing education program.

NOW, THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:

Based on the above Findings of Fact and Conclusions of Law, in lieu of any administrative penalties or reprimands associated with a finding of a violation of the Board's rules and the

Veterinary Licensing Act, Respondent agrees to **voluntarily surrender** his veterinary license and not seek reinstatement by the Board for five years from the date the Board approves this 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 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, JAMES L. ROGERS, 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.

James L. Rogers DVM
JAMES L. ROGERS, D.V.M.

9-2-15
Date

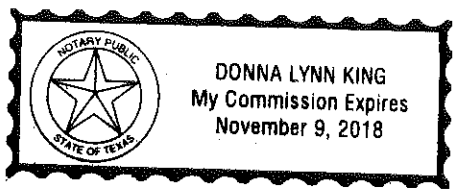
STATE OF TEXAS

COUNTY OF Travis

BEFORE ME, on this day, personally appeared JAMES L. ROGERS, 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 2 day of September, 2015

Donna Lynn King
Notary Public



SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 13th day of October, 2015

Bud Aldredge, Jr., DVM
President of the Board