LICENSURE ORDER 2016-182

IN THE MATTER § TEXAS STATE BOARD OF
OF THE LICENSE OF § VETERINARY
CONSTANCE SACK, D.V.M. § MEDICAL EXAMINERS

AGREED LICENSING ORDER

On this, the 18 day of July, 2016, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Constance Sack, D.V.M. ("Applicant"). Pursuant to Section 801.408, Texas Occupations Code, and Board Rule 575.29, an informal conference was held on July 18, 2016. Applicant did attend the conference and was not represented by counsel. The Board was represented at the conference by the Board's Enforcement Committee.

Applicant, 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. Applicant agrees to comply with the terms and conditions set forth in this Order. In waiving an adjudicative hearing, Applicant acknowledges her understanding of the alleged violations and the adequacy and sufficiency of the notice provided to her.

Upon the recommendation of the Enforcement Committee and with Applicant’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. The Board has jurisdiction over the subject matter and Applicant. Applicant 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, Applicant 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).

2. Between the dates of May 10, 2013, and March 1, 2016, Applicant held a veterinary license with the Texas Board of Veterinary Medical Examiners (Board).

3. On January 27, 2015, Applicant entered into an agreed order with the Board in docket number 2015-026 based upon her failure to comply with a previous order’s requirement to enter into a contract with the Board’s Peer Assistance Program for substance abuse. The order included the following stipulation:

Agreed Order 2016-182
Constance Sack, D.V.M.
The Board ... ORDERS that Respondent's license be SUSPENDED for FIVE YEARS and the ability for the Board to modify that suspension under Board rule 575.38 is contingent on two factors. Respondent has to be in compliance with the Board's Peer Assistant Program for one year before the date of the request for the modification and the Board's Peer Assistance Program must determine that, in their opinion, Respondent is safe to practice veterinary medicine before Respondent's suspension may be modified.

4. On March 1, 2015, Applicant's veterinary license expired, and on March 1, 2016, Applicant’s veterinary license was cancelled.

5. On June 9, 2016, Applicant submitted an application for a veterinary license.

Conclusions of Law

1. Applicant 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 5, Applicant has violated Section 801.402(3) and (17) 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:

(3) is chronically or habitually intoxicated, chemically dependent, or addicted to drugs.

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

... (e) The board may issue a disciplinary order directing a veterinarian to participate in the peer assistance program under Section 801.157 if the board determines that the veterinarian is an impaired professional as defined by Section 467.001, Health and Safety Code.
NOW, THEREFORE, THE BOARD AND APPLICANT AGREE AS FOLLOWS:

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Applicant is hereby granted permission to take the state licensing examination. Applicant must take and pass the state licensing examination within one year of the date of this Order. If Applicant passes the state licensing examination, she may be granted a Texas license subject to the following terms and conditions:

The Board ORDERS that Applicant's license be SUSPENDED for five years, with said SUSPENSION STAYED and Applicant be placed on PROBATION for the entire period of SUSPENSION.

In addition, the Board ORDERS Applicant to complete a Peer Assistance Contract under the Board’s Peer Assistance Program for five years (5) from the date the Board signs this Order. Applicant shall follow all recommendations of the Peer Assistance Program Coordinator. If Applicant has more than one missed call in a six-month period, one missed drug screening in a six-month period, or tests positive without a legitimate prescription for any drug Applicant tests positive for, under the Applicant’s Peer Assistance Contract, further and immediate disciplinary action may be taken by the Board and is considered a violation of this Board Order.

The Board ORDERS that for the first six months of practice following the issuance of a veterinary license, Applicant must practice in a group setting where other veterinarians are practicing. The Board further ORDERS that for the first six months of practice following the issuance of a veterinary license, Applicant must practice under the direct supervision of a veterinarian approved by the Board’s Peer Assistance Program and the Board. The Board may delegate its approval authority to the Executive Director.

The Board further ORDERS that:

1. Applicant 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. Applicant shall cooperate with the Board’s attorneys, investigators, compliance officers and other employees and agents investigating Applicant’s compliance with this order.

3. Failure by Applicant 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.

Applicant, by signing this Agreed Order, acknowledges her understanding of the Agreed Order, the notice, Findings of Fact and Conclusions of Law herein set forth, and agrees that she will satisfactorily comply with the mandates of the Agreed Order in a timely manner or be subject to appropriate disciplinary action by the Board.
Applicant, by signing this Agreed Order, waives her right to a hearing and any right to seek judicial review of this Order. Applicant acknowledges that she had the right to be represented by legal counsel in this matter.

APPLICANT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. APPLICANT 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.

Signature page follows.
I, CONSTANCE SACK, D.V.M., HAVE READ AND UNDERSTAND THE FOREGOING AGREED LICENSING 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.

CONSTANCE SACK, D.V.M.  

DATE  

STATE OF Texas  
COUNTY OF Dallas  

BEFORE ME, on this day, personally appeared Constance Sack, D.V.M., known to me to be the person whose name is subscribed to the foregoing Agreed Licensing Order, and acknowledged to me that she executed the same for the purposes stated therein.

Given under the hand and seal of office this 15th day of July, 2016.

EDWIN ALLAN HERNANDEZ  
Notary Public, State of Texas  
My Commission Expires:  
February 08, 2017

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the ______________, 20__.

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