DOCKET NO. 2008-44

IN THE MATTER § TEXAS STATE BOARD OF
OF THE LICENSE OF § VETERINARY
MICHAEL A. SCHMURR, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this, the 19th day of June, 2008, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of MICHAEL A. SCHMURR, D.V.M. ("Respondent"). Pursuant to Section 801.2056, Texas Occupations Code, a committee of the Board's staff met on February 7, 2008 to consider alleged violations of the Veterinary Licensure 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 his understanding of the alleged violations and the adequacy and sufficiency of the notice mailed to him.

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. The Board has jurisdiction over the subject matter and Respondent. Respondent has received all notice that may be required by law and by the Board's rules. All jurisdictional requirements have been satisfied.

2. On June 28, 2007, the Board sent Michael A. Schmurr, D.V.M., Orange, Texas a copy of the Agreed Order for TBVME Docket No. 2007-26. Dr. Schmurr had previously signed the Agreed Order, which in part required Dr. Schmurr to surrender his DEA controlled substance license within fourteen (14) days of the signed agreed order. Dr. Schmurr received one letter from the Board on December 5, 2007 stating that Dr. Schmurr had completed the requirements of the Order. Then the Board sent another letter dated December 19, 2007, stating that Dr. Schmurr had failed to surrender his DEA controlled substance license. This letter gave Dr. Schmurr until January 2, 2008 to show compliance with the Board Order. Dr. Schmurr surrendered his DEA controlled substance license on January 10, 2008.

3. Dr. Schmurr did not surrender his DEA controlled substance license until six months after he was required to do so under the signed Agreed Order.
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 Facts 1 through 3, Respondent has violated Rule 573.62, VIOLATION OF BOARD ORDER/NEGOTIATED SETTLEMENTS, of the Board’s Rules of Professional Conduct, which requires a veterinarian to abide by the terms of an order entered against them.

3. Based on Conclusions of Law 1 and 2, 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 Conclusions of Law 1 through 3, 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 Michael A. Schmurr, D.V.M., 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 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. 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 date of this Agreed Order shall be the date it is adopted by the Texas Board of Veterinary Medical Examiners.

I, MICHAEL A. SCHMURR, 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.

Michael A. Schmurr, D.V.M.  

Date  

4-8-08
STATE OF TEXAS
COUNTY OF
Louisiana
Parish of Richland

BEFORE ME, on this day, personally appeared Michael A. Schmurr, 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 8th day of April, 2008.

[Signature]
Notary Public

JANICE D. ISAAC
NOTARY PUBLIC
#45067

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 19th day of June, 2008.

[Bud F. Allredge, Jr., D.V.M.]
President of the Board