

IN THE MATTER OF § TEXAS BOARD OF
THE LICENSE OF § VETERINARY
JACK SWAIN, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this day the Texas Board of Veterinary Medical Examiners (“Board”) considered the matter of the license of Jack Swain, D.V.M. (“Respondent”).

Respondent, without admitting the truth of the Findings of Fact and Conclusions of Law set out in this Order, waived notice and hearing and agreed to the entry of this Order. Accordingly, the Board makes the following Findings of Fact and Conclusions of Law and enters this Order as set forth below.

FINDINGS OF FACT

1. Respondent, Jack Swain, D.V.M., of Stratford, Texas, holds Texas veterinary license 2974.
2. On May 9, 2017, Board investigators conducted an on-site inspection of Respondent at Critter Country Boarding in Dumas, Texas. The inspection revealed that Respondent did not have a controlled substance log. At the time of the inspection, the facility had approximately 10ccs of euthanasia and approximately 1.5ccs of ketamine on hand.
3. On May 12, 2017, Board investigators conducted an on-site inspection of Respondent at Stratford Animal Hospital in Stratford, Texas. The inspection revealed that did not include a balance on hand. At the time of the inspection, the facility had 71ccs of ketamine, 115ccs of euthanasia, and 25ccs of telazol on hand.
4. At the time of the inspection, Respondent held a DEA registration for Stratford Animal Hospital and ordered controlled substances for the facility.
5. The inspection of Stratford Animal Hospital also revealed that controlled substances were being stored in a safe that was not permanently constructed or attached to the building structure or fixtures so as to prevent the cabinet from being physically removed from the premises. At the time of the inspection, Respondent owned the facility
6. Both inspections revealed that Respondent’s medical records did not include necessary items such as the species of the patient, weight and temperature, client contact information, or details necessary to substantiate or document the examination, diagnosis, and treatment provided, and/or surgical procedure performed.

7. Respondent has prior violations of a similar nature. On February 26, 1998, the Board approved Agreed Order DK1998-07, which found that Respondent had violated Board Rule 573.41, Use of Prescription Drugs, Board Rule 573.52, Patient Record Keeping, and Rule 573.40, Labeling of Medications Dispensed.

CONCLUSIONS OF LAW

1. Pursuant to Texas Occupations Code, Chapter 801, the Board has jurisdiction over this matter. Respondent is required to comply with the provisions of the Veterinary Licensing Act, Chapter 801, Texas Occupations Code, and with the Board's Rules. Respondent received notice as required by law.
2. Respondent has violated Board Rule 573.50, Controlled Substances Records Keeping for Drugs on Hand, of the Board's Rules of Professional Conduct.
3. Respondent has violated Board Rule 573.52, Veterinarian Patient Record Keeping, of the Board's Rules of Professional Conduct.
4. Respondent has violated Board Rule 573.61, Minimum Security for Controlled Substances, of the Board's Rules of Professional Conduct.
5. Respondent has violated Section 801.402(6) of the Veterinary Licensing Act, Texas Occupations Code.
6. Respondent is subject to disciplinary action under Texas Occupations Code, Sections 801.401(a), and 801.451.
7. Pursuant to Board Rule 575.25, Respondent's violations are Class B violations, and Respondent is subject to disciplinary action under that Rule.

TERMS OF ORDER

Now, therefore, the Board and Respondent agree to the following terms:

1. REPRIMAND
 - a. Respondent is hereby formally reprimanded by the Board. This formal reprimand may be published in the Board's newsletter and routinely reported to the American Association of Veterinary State Boards (AAVSB) for inclusion in the national reporting database.
2. ADMINISTRATIVE PENALTY
 - a. Respondent shall pay an administrative penalty of three thousand dollars (\$3,000.00) within 30 days of the date the Board approves this Order. Payment shall be made directly to the Texas Board of Veterinary Medical Examiners at 333

Guadalupe Street, Suite 3-810, Austin, Texas 78701. Partial payments will not be accepted.

- b. If Respondent does not timely pay the administrative penalty, the Board may deny a request to renew Respondent's license until the outstanding administrative penalty is received, pursuant to Board Rule 573.62(b). Any monetary funds paid to the Board to renew a license shall first be applied to any outstanding unpaid administrative penalties, pursuant to Board Rule 571.57. Additionally, the matter may be referred to the Attorney General for collection, pursuant to Texas Occupations Code, Section 801.458.

3. CONTINUING EDUCATION

- a. In addition to the annual continuing education required for license renewal, Respondent shall complete three (3) hours of continuing education in the area of patient recordkeeping within one year of the date the Board approves this Order. These hours shall be in addition to Respondent's annual continuing education requirements. Respondent shall submit documentation of the completed continuing education penalty and the required annual continuing education to the Board within one year and 30 days of the date the Board approves this Order. Documentation shall be submitted directly to the Texas Board of Veterinary Medical Examiners at 333 Guadalupe Street, Suite 3-810, Austin, Texas 78701.

4. ADHERENCE TO THE LAW AND BOARD RULES

- a. Respondent shall abide by the Board's Rules of Professional Conduct, the Texas Veterinary Licensing Act, and the laws of the State of Texas and the United States.
- b. Respondent shall cooperate with the Board's attorneys, investigators, compliance officers and other employees and agents investigating Respondent's compliance with this Order.
- c. Failure by Respondent to comply with the terms of this Order, or with any other provisions of the Veterinary Licensing Act or the Board Rules, may result in further disciplinary action.

The effective date of the terms of this Order shall be the date it is adopted by the Board, unless stated otherwise.

Certification and signature page follows.

RESPONDENT'S CERTIFICATION

I understand that I have the right to legal counsel prior to signing this Order. I waive representation by counsel. I have reviewed this Order and understand the Findings of Fact and Conclusions of law set forth herein. I neither admit nor deny the violation(s) herein. I understand that this Order contains the entire agreement, and there is no other agreement of any kind. I waive the right to any further proceedings, including a formal hearing, and the right to seek judicial review of this Order.

Received
MAY 14 2018

I understand that this Order is subject to approval by the Board. I understand that the terms and conditions of this Order become effective upon approval by the Board. A copy of the approved Order will be mailed to me. By signing this Order, I agree to satisfactorily comply with the terms and conditions of the Order in a timely manner. I understand that if I fail to comply with all terms and conditions of this Order, I will be subject to investigation and appropriate disciplinary action as a result of my noncompliance.

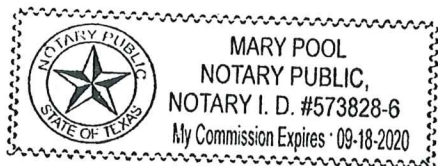
Texas State Board of
Veterinary Medical Examiners

Signed this 11 day of May, 2018.

Jack Swain D.V.M.
Jack Swain, D.V.M.

Sworn and subscribed before me this 11 day of May, 2018.

SEAL:



Mary Pool
Notary Public

THEREFORE, the Texas Board of Veterinary Medical Examiners does hereby adopt this Order. This Order is effective and final on this 31st day of July, 2018.

Jessica Quillivan
Jessica Quillivan, D.V.M., Presiding Board Member