DOCKET NO. 2009-25

IN THE MATTER OF § TEXAS BOARD OF
THE LICENSE OF § VETERINARY
EDWARD A. TODD, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this the ____ day of February, 2009, came to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of Edward A. Todd, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on January 8, 2009. The Respondent waived his right to appear. 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. On March 26, 2008, Ivan Alejandro Chaparro, a lay equine dentist, was found in possession of controlled substances and dangerous drugs and observed to be performing equine dentistry at Sam Houston Race Park. According to an affidavit filed in Harris County District Court by Sergeant Eric Williams, with the Texas Department of Public Safety, on March 26, 2008, Mr. Chaparro was observed to be in possession of numerous controlled substances and dangerous drugs, including 26 grams of controlled substance, Ketamine, 30 grams of controlled substance, Stanozolol, and 25 grams of the dangerous drug, Xylazine. Mr. Chaparro also made a statement to Sgt. Williams that he is not a licensed veterinarian but has been conducting veterinary procedures at Sam Houston Race Park. According to Mr. Chaparro's own statement, he is hired by numerous horse trainers at the race track to perform veterinary procedures because he charges a reduced rate compared to licensed veterinarians. Mr. Chaparro also made a statement to Sgt. Williams that he received the dangerous drugs and the controlled substances from Dr. Edward Todd, D.V.M. and Dr. Jon Johnson, D.V.M. According to Mr. Chaparro, Mr. Chaparro works for
these two licensed veterinarians in return for the receipt of controlled substances and dangerous drugs.

2. Dr. Todd was requested to provide a statement to the Board in response to investigation being conducted by the Board. Peter Nolan, attorney for Dr. Todd provided a written response to the Board on November 21, 2008. According to the written statement provided, on March 26, 2008, Dr. Todd employed Mr. Chaparro in the care of Dr. Todd’s personal horses at various locations. Dr. Todd had known Mr. Chaparro for approximately four years. Mr. Chaparro was from Columbia and still needed to pass the English comprehension test and the clinical competency exam required for all graduates of foreign veterinary schools seeking licensure in the United States. Mr. Chaparro assisted Dr. Todd in order to improve his veterinary skills. Mr. Chaparro experienced difficulty passing the English exam. According to the written statement provided, Dr. Todd was aware that Mr. Chaparro began offering equine dental services for trainers and owners of racehorses. Mr. Chaparro was authorized by Dr. Todd to administer certain controlled substances to Dr. Todd’s horses and, in certain instances, used tranquilizers for some of the procedures that he was performing, at Dr. Todd’s request. Dr. Todd states that the drugs found in possession of Mr. Chaparro were only authorized to be administered to Dr. Todd’s personal horses, and not for any other use. Dr. Todd only employed Mr. Chaparro part-time for the care of his personal horses. Dr. Todd had no knowledge that Mr. Chaparro was using controlled substances to treat animals not belonging to Dr. Todd. Dr. Todd failed to establish a veterinarian-client-patient relationship for those equines Mr. Chaparro was performing equine dental and sedation services on, and dispensed and/or delivered prescription drugs to Mr. Chaparro. Dr. Todd knew or should have known of the diversion of controlled drugs and dangerous drugs by Mr. Chaparro for his other line of business, providing lay equine dental services to horse owners.

3. Dr. Todd was asked to surrender in lieu of arrest on July 7, 2008, for delivering a controlled substance to Ivan Chaparro. Dr. Todd posted a bond with Harris County on July 7, 2008. Dr. Todd failed to report his surrender in lieu of an arrest for a felony involving the practice of veterinary medicine to the Board. These charges were dropped in Harris County November 19, 2008.

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 Finding of Facts 1 and 2, Respondent has violated Rule 573.61, MINIMUM SECURITY FOR CONTROLLED SUBSTANCES, of the Board’s Rules of Professional Conduct, which requires veterinarians to establish adequate security to prevent unauthorized access to controlled substances and/or to establish adequate security to prevent the diversion of controlled substances.

3. Based on Finding of Fact 3, Respondent has violated Rule 573.69 REPORTING OF
CRIMINAL ACTIVITY, of the Board’s Rules of Professional Conduct, which requires veterinarians to report to the Board any arrest for, or a conviction for, any misdemeanor related to the practice of veterinary medicine.

3. Based on Finding of Facts 1-3 and 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, 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 of this Order.

The Board ORDERS that:

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

2. 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
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 had the right to be 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, EDWARD A. TODD, 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.

Edward A. Todd, D.V.M.

STATE OF TEXAS §
COUNTY OF Montgomery §

BEFORE ME, on this day, personally appeared EDWARD A. TODD, 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 4th day of Feb., 2009.

JEWEL K. BLOCKER
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the _____ day of February, 2009.

Bud E. Alldredge, Jr., D.V.M., President